

Leave of Absence

Tuesday, June 13, 1995

SENATE

Tuesday, June 13, 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. John Rooks to be absent from today's sitting of the Senate for medical reasons.

I have also granted leave to Sen. Everard Dean to be absent from sittings of the Senate during the period June 18 to July 5, 1995, as he will be out of the country.

I have granted leave to Sen. Ainsley Mark to be absent from sittings of the Senate during the period June 12 to June 16, 1995, as he will be out of the country.

I have also granted leave to Sen. The Hon. Dr. Lenny Saith, Minister of Planning and Development, to be absent from sittings of the Senate during the period June 11 to June 19, 1995, as he will be out of the country on Government business.

I have granted leave to Sen. Hydar Ali to be absent from today's sitting of the Senate.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have been advised that His Excellency the President has appointed Dr. Eric Baldwin Anderson St. Cyr to be a temporary Senator with effect from June 13, 1995 and continuing, during the period of illness of Sen. John Rooks.

I have been advised that His Excellency the President, acting in accordance with the advice of the Leader of the Opposition, has declared the seat of Sen. Carol Merritt to be vacant with effect from June 12, 1995.

I have also been advised that His Excellency the President, acting in accordance with the advice of the Leader of the Opposition, has declared the seat of Sen. Muntaz Hosein to be vacant with effect from June 12, 1995.

Senators' Appointments
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I have been advised that His Excellency the President, acting in accordance with the advice of the Leader of the Opposition, has appointed The Most Reverend Barbara Gray-Burke a Senator with effect from June 12, 1995.

Finally, I have been advised that His Excellency the President, acting in accordance with the advice of the Leader of the Opposition, has appointed Mr. O-ga Edmund P. Mejias a Senator, with effect from June 12, 1995.

I understand that there is one other temporary appointment which has not yet been received by this office. I am sure that if it comes later, we will allow that Senator to be sworn in at an appropriate stage.

OATH OF ALLEGIANCE

Sen. Barbara Gray-Burke and Sen. Eric Baldwin Anderson St. Cyr. took and subscribed the Oath of Allegiance as required by law.

AFFIRMATION OF ALLEGIANCE

Sen. O-ga Edmund P. Mejias took and subscribed the Affirmation of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General on the accounts of The National Maintenance, Training and Security Company Limited for the year ended December 31, 1994. [*The Minister of Social Development (Sen. The Hon. Russell Huggins)*]
2. Auditors' report and financial statements of the Trinidad and Tobago Mortgage Finance Company Limited for the year ended December 31, 1994. [*Hon. Russell Huggins*]
3. Financial statements of the National Flour Mills Limited for the year ended December 31, 1994. [*Hon. R. Huggins*]
4. Financial statements of the Trinidad Nitrogen Company Limited for the year ended December 31, 1992. [*Hon. R. Huggins*]
5. Non-consolidated financial statements of the National Gas Company of Trinidad and Tobago Limited for the year ended December 31, 1992. [*Hon. R. Huggins*]

6. Financial statements of the National Gas Company of Trinidad and Tobago Limited for the year ended December 31, 1993. [*Hon R. Huggins*]
7. The Defense (Rates of Pay and Allowances) (Amdt.) Regulations, 1995. [*Hon. R. Huggins*]
8. The Immigration (Amdt.) Regulations, 1995. [*Hon. R. Huggins*]

SELECT COMMITTEE REPORTS

**Vishwanath Hindu Social And Cultural
Organization (Inc'n) Bill**

Presentation

Sen. Deodath Ojah-Maharaj: Mr. President, I beg to 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 Vishwanath Hindu Social and Cultural Organization.

**San Francique Sports, Educational And
Cultural Council**

Presentation

Sen. John Rahael: Mr. President, I beg to 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 San Francique Sports, Educational and Cultural Council and for matters incidental thereto.

ORAL ANSWER TO QUESTION

The following question stood on the Order Paper in the name of Sen. Muntaz Hosein.

**District Medical Officer
(Job Specification)**

33. (a) Could the hon. Minister state the present job title and job description of Dr. Michael Baboolal?
- (b) Is the hon. Minister aware that Dr. Michael Baboolal was not engaged in the active practising of medicine for many years prior to his appointment?

Oral Answer to Question
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- (c) Could the hon. Minister state the criteria used in the selection of a District Medical Officer and also provide the relevant information on the job specification of a District Medical Officer?
- (d) Could the hon. Minister state the salary range and add-on benefits of the post of District Medical Officer?
- (e) Could the hon. Minister state the present salary and benefits received by Dr. Michael Baboolal?
- (f) Could the hon. Minister state his Ministry's policy on the recruitment and selection of District Medical Officers?

Question lapsed as Sen. Muntaz Hosein's appointment was revoked.

TREASURY NOTES BILL

Bill to empower the Minister of Finance to borrow money by the issue of Treasury Notes, to declare the conditions applicable to such borrowings and to make consequential amendments to related Acts, [*The Minister of Social Development*]; read the first time.

Motion made, That the next stage of the Bill be taken at the next sitting of the Senate. [Hon. R. Huggins]

Question, put and agreed to.

TRINIDAD AND TOBAGO SECONDARY SCHOOLS FOOTBALL LEAGUE (INC'N) BILL

Question put and agreed to, That a Bill to provide for the incorporation of the Trinidad and Tobago Secondary Schools Football League, be now read the first time.

Bill accordingly read the first time.

SISTERS OF ST. JOSEPH OF CLUNY (INC'N) BILL

Question put and agreed to, That a Bill for the incorporation of the Sisters of St. Joseph of Cluny be now read a first time.

Bill accordingly read the first time.

Trustees (AMORC) (INC'N) (AMDT.) BILL

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**TRUSTEES OF THE PORT OF SPAIN CHAPTER (AMORC)
(INC'N) (AMDT.) BILL**

Question put and agreed to, That a Bill for the incorporation of the Trustees of Port of Spain Chapter (AMORC) be now read a first time.

Bill accordingly read the first time.

ARRANGEMENT OF BUSINESS

The Minister of Social Development (Sen. The Hon. Russell Huggins): Mr. President, I now beg to move that we deal with items 6, 7 and 8 under Private Business at this time instead of Government Business.

Agreed to.

SELECT COMMITTEE REPORTS

**Calvary Revival Centre (Inc'n) Bill
Adoption**

Sen. Jean Elder: Mr. President, I beg to move:

That this Senate adopt the report of the Special Select Committee of the Senate appointed to consider and report on a Private Member's Bill for the incorporation of the Calvary Revival Centre and for matters incidental thereto.

Seconded by Sen. John Rahael.

Question proposed.

Question put and agreed to.

Report adopted.

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

Bill accordingly read the third time and passed.

**Vishwanath Hindu Social And Cultural
Organization (Inc'n) Bill
Adoption**

Sen. Jean Elder: Mr. President, I beg to move:

That this Senate adopt the report of the Special Select Committee of the Senate appointed to consider and report on a Private Member's Bill for the incorporation of the Vishwanath Hindu Social and Cultural Organization.

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Seconded by Sen. Rev. Daniel Teelucksingh.

Question proposed.

Question put and agreed to.

Report adopted.

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

Bill accordingly read the third time and passed.

**San Francique Sports, Educational And
Cultural Council (Inc'n) Bill
Adoption**

Sen. John Rahael: Mr. President, I beg to move:

That this Senate adopt the report of the Special Select Committee of the Senate appointed to consider and report on a Private Member's Bill for the incorporation of the San Francique Sports, Educational and Cultural Council of Trinidad and Tobago and for matters incidental thereto.

Seconded by Sen. J. Barrack.

Question proposed.

Question put and agreed to.

Report adopted.

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

Bill accordingly read the third time and passed.

1.50 p.m.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, before we proceed with the next item on the agenda which I believe is the Committee stage of the Free Zones (Amdt.) Bill, I received communication advising that His Excellency the President has appointed Mr. Sankar Mahabirsingh to be a temporary Senator with effect from June 13, 1995 and continuing during the absence from Trinidad and Tobago of Sen. The Hon. Dr. Lenny Saith.

OATH OF ALLEGIANCE

Sen. Sankar Mahabirsingh took and subscribed the Oath of Allegiance as required by law.

TRINIDAD AND TOBAGO FREE ZONES (AMDT.) BILL

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

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

Sen. Prof. Spence: Mr. Chairman I have an amendment to clause 3 which reads as follows:

"In line 3(2) delete the words "the Company" and substitute the words 'the Minister of Planning and Development.'

Similarly in 3(3)."

My rationale is that I am unhappy about the recommendation coming only from the company. I think in any case the company, obviously, would be making recommendations. But it seems to me that one wants to put free zones in the context of the overall planning for the country and therefore the appropriate Ministry or Minister to put that in its correct context, in my opinion, is the Minister of Planning and Development.

Hon. Sobion: Mr. Chairman, the suggested amendment is really not necessary. The Minister who is referred to in clause 3(2) will only act—we are talking here of Cabinet responsibility—once he is assured that the necessary approvals come from the respective ministries which will have to give approvals. For example, Planning approval will come from the Planning Ministry. All that is happening here by this clause is that the company makes a recommendation to the Minister with respect to the use of certain areas and the necessary approvals will have to be obtained. So it is not a question for the Minister of Planning and Development to make these recommendations. He will be consulted in the normal course of things. So it is really not necessary to make the amendment as proposed.

Sen. Prof. Spence: Mr. Chairman, I am not referring to the approval in the sense of Town and Country Planning; I am talking about economic planning, for example.

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I believe that that Minister as opposed to Town and Country Planning will have an overview of how the country is going from the point of view of its economic development and therefore know where to plug in EPZs, not planning in the sense of Town and Country Planning. I am not, myself, persuaded that the sort of input that I would hope for would come from a discussion with Cabinet. I do not think Cabinet has the time to make that sort of input, given the number of things that it deals with.

Mr. Sobion: Again, Mr. Chairman, that is anticipated and contemplated by clause 3(1):

"The President may, by order, prescribe the areas in which a Free Zone may not be designated."

So the President there is the Cabinet; and the input of the Minister of Planning will be involved in that decision which is to be made under clause 3(1). So if it is the wider question one is looking at, that is provided for by clause 3(1).

Sen. Prof. Spence: I thought the hon. Attorney General understood that I was saying that I did not believe that that sort of discussion that was needed would take place in Cabinet. I do not think that it can. So I am suggesting a specific input from the Ministry of Planning and Development.

Mr. Valley: Mr. Chairman, the fact that clause 3(1) suggests that a conscious decision would be taken to indicate areas in which free zones may not be established, one would expect that that information would come from the Minister of Planning and Development in the first place. Obviously he must have an input in determining areas in which, for economic or for planning purposes, that are unsuited for free zones. So that that is approved by Cabinet. Therefore areas outside of those areas so specified can be used for free zones. That is what is contemplated in subclause (2).

Sen. Prof. Spence: Mr. Chairman, again, that implies physical planning. But I will not push the point anymore. I will not withdraw it. I think there should be a vote on this point. I do not think it is appreciated precisely what I am trying to get at.

Sen. Daly: I would like to speak in support of Sen. Spence's amendment, because there is no suggestion here that the order made under clause 3(1) is going to precede the grant of any approvals under clause 3(2). So one might well find that by the time the Cabinet comes around to designating those areas not appropriate for a free zone, unfortunate approvals may have already been given.

2.00 p.m.

Mr. Sobion: Mr. Chairman, again, there are two stages to this issue. There is the overall planning policy of the Ministry of Planning and Development, and in the normal course of things, they would submit to the Cabinet a position paper on land use; for example, economic use for certain areas and so forth.

To take Sen. Daly's point: In any event, when acting under clause 3(2), there would have to be consultation with the relevant ministries. It is not for the Minister of Planning and Development to make a recommendation of the nature contemplated in 3(2). It is the free zones company which is charged with the responsibility for operating and managing free zones to make a recommendation. That is all they are making; a recommendation to the Minister.

It is within that context that one would then have to get the necessary approvals from which ever ministries or departments and the input of the Minister of Planning and Development would come in that area.

Sen. Prof. Spence: Mr. Chairman, I would like to propose an alternative amendment, and that is:

"The Minister may on the recommendation of the Company, and after consultation with the Minister of Planning and Development, amend the Order."

Mr. Valley: Accepted, Mr. Chairman.

Sen. Prof. Spence: Mr. Chairman, I would like to withdraw the previous amendment and propose the following for clause 3((2):

"The Minister may, by Order, on the recommendation of the Company, and after consultation with the Minister of Planning and Development, designate an area a free zone,..."

I also propose that clause 3(3) be amended as follows:

"The Minister may on the recommendation of the Company, and after consultation with the Minister of Planning and Development, amend an Order made under subclause (2)."

Mr. Chairman: Sen. Spence, do you have that in writing?

Sen. Prof. Spence: No, Sir.

Mr. Chairman: May I remind Senators that there is a Standing Order which states that amendments must be in writing. I have known the problems that can

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be created when such amendments are not written. That is one Standing Order that I stick to very rigidly, based on past experience. However simple the amendment may seem, it has had its repercussions in the past.

If anybody has any other amendments in their minds to make, and they are not yet in writing, please start drafting them.

The amendment proposed by Sen. Prof. Spence to clause 3(2) reads as follows:

"After the word "Company" insert the words "after consultation with the Minister of Planning and Development"

Mr. Sobion: Mr. Chairman, it should be "and after consultation"

Question, on amendment, put and agreed to.

Mr. Chairman: The amendment proposed by Sen. Prof. Spence to clause 3(3) reads as follows:

"After the word "Company" insert the words " and after consultation with the Minister of Planning and Development"

Question put and agreed to.

Mr. Sobion: Mr. Chairman, there is another amendment to Clause 3.

Clause 3(7): This clause caused some concern during the debate—the 90 days prior to the effective date. What we have done is to use a formulation which exists in the Act at the moment. It is set out in the supplemental list of amendments which was circulated and I believe it has just been recirculated.

It provides that the Order may specify a date on which the free zone is deemed to be designated. That is the provision which I said exists at this time in the Act.

[Mr. Sobion confers with legal advisors]

Mr. Chairman, the existing provision in the Act to section 15(3) which adopts the same wording we are now adopting rather than the convoluted 90-day prior to, as contained in the Bill reads:

15(3) 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."

We have merely used the same formulation in that section. *[Interruption]* Section 15(3) would remain as is. We are amending clause 3(7) to accord with the wording in section 15(3) which is an existing provision.

Sen. Persad-Bissessar: Mr. Chairman, the point we made is that the 90 days would have made it retroactive and we were not in agreement with having such a provision. What the Government is now doing is, in effect, making it *carte blanche*. It is going to be open to more than 90 days; one can go to 100 or 200 days or even one year. The 90 days had given it a restriction—that is what was first proposed in the amendment—but this amendment goes even further. Now, there is no timeframe set.

Mr. Valley: Which do you prefer?

Sen. Persad-Bissessar: It is not a question of prefer. We were saying to take out the retroactivity completely? Why do you want a retroactive order? This is the point we were making and it was never properly answered in the debate. Why is it that you want to grant a retroactive order? We have always been very much against retroactive legislation in this usage.

Mr. Valley: Mr. Chairman, this is not retroactive legislation. The intent is not to grant any approvals retroactive to the passage of the legislation. The point was made that the purpose of the clause is to compensate for bureaucratic delays.

2.10 p.m.

We are talking about a 90-day subsequent to the passage of the legislation. For example, if next year we were to be looking at a free-zone area, we may have to date the Order 90 days prior, not prior to the passage of the legislation. It is merely a carry-over of the 15(3). Because of the objection we were prepared to go with the original formulation. What we know, however, we cannot date the Order simply at the time when it is passed. There must be some leeway to allow for the processing.

If one wants to ensure that, we cannot date an Order retroactive to today's date, we have no problem if one can find the appropriate route. Because that is not the intent of the clause.

Sen. Barrack: The simple application that was not being entertained and, therefore, people who are making applications to be in these zones should know that they may be granted the facility or they may not be granted the facility.

You are saying that those who are successful may enjoy that benefit from the time of the application.

Mr. Valley: Mr. Chairman, there is a simple example. Take the case that is before us at present. Here the Cabinet has taken a decision with respect to the

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surcharge on beef but there is a processing period. One has to come to Parliament, one has to put the legislation in place.

If we take the point it means that whenever legislation is passed, then it is only from that point. All we are saying is this compensates for processing time. It is already in the legislation.

Sen. Persad-Bissessar: With the greatest respect, it is not good enough to say it is already there. What we are doing is amending legislation to deal with problems which would have been encountered in there and matters that you would not want to support. With the greatest respect, it is not good enough to say it is already there because we are here trying to change certain provisions.

Mr. Valley: As a matter of fact we are changing that one also because we are making it more restrictive.

Sen. Persad-Bissessar: I am sorry but the argument has not convinced me. I take his point that he needs to have a time-frame but the Order is to designate it as a free zone. An order is going to be made saying this area is now designated a free zone. Why does he want to go backwards and designate it from 90 days back? Why can we not say when the Order is signed today, that as from today this area is now designated a free zone? Why do we have to go 90 days backwards?

Mr. Valley: Quite simply, the approval of the free zone might very well be before the publication of the Order and we want to have that leeway to date the order within a 90 day period.

Sen. Capildeo: Mr. Chairman, I think something is wrong with the hon Minister's thinking on it. When you look at page 11, paragraph 8, section 15, it says you are deleting subsection 15(3) of the original Act and you are replacing it with this.

"An order made under this section will take effect on a date prior to its effective date."

Which is what my Friend is making all the objections about.

"An order made under this section may take effect on a date prior to its effective date but no earlier than the date of the relevant order made under section 3(2)."

The argument which my Friend is raising is the argument of retroactive legislation. This emphasizes to its ultimate point retroactive legislation. He is saying an Order made under this section may take effect on a date prior to its effective date. He is now concretizing the retroactivity of it.

Mr. Sobion: We are not pursuing that provision as set out as clause 8. We are leaving it in its original formulation which now appears in 15(3).

Sen. Capildeo: Then that is a half-way thing. This is the original one.

Every Order made under subsection (2) shall specify a date on which the relevant approved enterprise is deemed to begin...

This is open-ended as well.

I think the argument is nothing that has anything to do with you, of course—and we are extremely worried about people being granted things and being regularized at a later point in time when we do not know about it. [*Cross-talk*]

Sen. Prof. Spence: If I may just make the comment. I think the hon. Minister is confusing Cabinet decision with the law and the Cabinet decision does not mean that it will ever become law.

Sen. W. Mark: Mr. Chairman, you will recall last week when we were debating this matter the Attorney General told this Parliament along with the Minister that the Government had not granted any approval to any agency to begin the construction of companies within a designated area called a free zone. We have information that areas have been designated as free zone areas, construction has taken place, and it has been going on for some months now.

What we have here is that the Government on the one hand may have given some signal to these entrepreneurs to begin construction of those free zone areas, like the warehouse complex that is taking place in D'Abadie, the Beaver Construction Company.

We are now dealing with a law and we are trying to give retroactivity to a decision of the Cabinet.

Mr. Valley: If you want you could include that one. Mr. Chairman, in my winding up on the last day, I stated categorically that under the existing legislation, under clause 3, it says:

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

That is in the existing legislation so that by Order under the old legislation an area has been designated a free zone. For that to become an approved enterprise this legislation has to be passed. It is not an approved enterprise yet but, the area is designated under the existing legislation as a free zone

Sen. Capildeo: Why can the relevant date not be the date on which Cabinet makes its Order? When Cabinet takes the decision, why can it not be the date that Cabinet takes this decision?

Mr. Sobion: I do not understand this question of retroactivity that is being raised. Before something is deemed an approved activity there must be an application for it to be an approved activity. It is only when that application is made that consideration is later given by the Ministry and by the Cabinet.

There is a processing time between the date of the application. This existing clause 15(3) is only designed to permit the Minister to make the Order from some point in time after the application was filed. Retroactivity has nothing to do with this piece of legislation.

2.20 p.m.

Mr. Sobion: From some time after an application has been filed to the time of final approval, he can say that this is a designated and approved activity, with effect from the date of the application.

Sen. Capildeo: Why can your draft people not put it there so the order will take effect from the day Cabinet agrees?

Mr. Sobion: When a person makes an application he goes through the bureaucracy of getting Cabinet to give an approval. You then say that approval is granted as of the date the application was made. Time and time again you hear people talk about the bureaucracy and delays in processing.

Mr. Valley: Mr. Chairman, if Members opposite would agree, we can put another sub-clause to the effect that in no event any order would be dated prior to the passage of this legislation.

Sen. Daly: May I ask a practical question? What difference does it make to the applicant whether his application is backdated for six weeks or whether it is effective the moment it is approved? Is there a lead time?

Mr. Valley: It might be a number of things. For example, remember to the extent that it is deemed an approved enterprise, then certain things follow such as taxation and custom duties. I think that is the most important area. The applicant may want to go about his business importing capital equipment.

Sen. Daly: What happens if the equipment gets here before the approval? Does it stay on the docks?

Mr. Sobion: In such circumstances, once the application has been made the customs authority would permit the importer to put up a bond to cover the amount of the customs duty. If it is subsequently declared an approved enterprise, then administratively, the bond would go. If it is not, the importer will then be called upon to pay under the terms of the bond. It is merely to facilitate the period of processing to allow persons to conduct their business quickly to start their work, and the administration would take care of some of those problems.

Sen. Prof. Spence: Mr. Chairman, it really seems to me that we are putting the Cabinet in the most ambiguous position. We are suggesting that the approval of Cabinet must be forthcoming. Which enterprise would start doing something before they have approval?

Sen. Capildeo: What happens if the clause is completely removed? Would there be any difference? The process will take place and when Cabinet approves it, that would be the date and the problem would be solved. Just remove this clause completely. If you just take out clause 7 nothing happens. That is like an appendix. You can cut it off. It is useless.

Mr. Sobion: I do not know what appendage you are talking about.

Sen. Capildeo: It is appendix.

Mr. Sobion: I see. I tried to explain the need for the provision to cut away, because we always hear complaints about the bureaucracy in government. A person makes an application because it is no fault of his that it will take a certain length of time to be processed, and this provides, as in the existing legislation before, the flexibility for the man to proceed with his business pending the grant of the approval. That is quite simply what that provision is for.

Sen. Daly: We are concerned in that we do not want someone to put Cabinet in a position where the consequences of an application are being refused. All this machinery is piled up on the docks and a certain number of people have been promised jobs. That is what we want to avoid. Therefore, if the application is refused then there could be a big hue and cry; leverage could be applied and arms could be twisted. We want to save the Government from all of that.

Mr. Sobion: That is a risk that the importer knows he is taking and if he chooses to take it, that is a risk a businessman will take if it is to his advantage.

Sen. Daly: He might be taking a business risk but he will also be taking a political risk. There are two risks involved. The political risk is that he may be able, notwithstanding the business risk, to twist arms and make a big hue and cry about the wickedness when he has all his stuff on the docks ready to go.

Sen. Persad-Bissessar: It seems to me that if he is saying he would grant it effectively from the date of the application and that is why he want to go backwards, it sounds then that if one applies for a job it will become effective from the date of one's application. With the greatest respect I have never heard something like that. It would take effect on the date of the application.

If clause 7 is committed it makes no difference to this legislation as it stands, but it would mean a great deal because he would not be allowed to back date his orders. They will take effect from the date they are made. It has to come out, with respect. I have not seen anywhere that I make an application for something and then I am deemed to have received it backwards. It is not proper at all, with respect to the hon. people on the other side.

Sen. Capildeo: We are easing up the work of the Cabinet. Cabinet would have nothing to do, save approve.

Sen. Persad-Bissessar: Once it is approved, the order would be granted and it would give the incentive then for the bureaucracy to work faster if they want to get that organization going and that zone so designated.

Sen. Capildeo: If it is deleted and it is not working come back with a next amendment. By that time the Minister would be able to fix dates and times of how long he wants.

Sen. Mahabir-Wyatt: It seems to me with all the greatest respect that we are going around in circles. This section which the Minister has proposed is the one that is in the existing legislation and has been operating for the last seven years and has not caused any problems. If something is not broken why do we want to fix it?

Part III section 15 (3) page 132 of the existing legislation states:

"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."

It is there and has been operating for seven years.

2.30 p.m.

Mr. Valley: Mr. Chairman, I think that if the original clause 15(3) remains in the legislation, we will all be happy.

Sen. Capildeo: Delete it.

Sen. Persad-Bissessar: Clause 3(7) is not there. It does not exist in the Parent Act. This is a new provision under clause 3. It becomes even more important when one remembers that in the debate, we had spoken about the article which appeared in the *Express* dated Wednesday, April 12, 1995, which says, "First Free Zone Complex Goes Up."

The report was that this company was already setting up.

Mr. Valley: We have no problem, Mr. Chairman. The proposed amendment to clause 3(7) has been withdrawn.

Amendment withdrawn.

Question put, That clause 3, as amended, stand part of the Bill.

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

Clause 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Sen. Daly: I beg to move an amendment to clause 5(b) as follows:

Insert after the word "authorise" in line 3, the words, "with the approval of the Minister".

Mr. Sobion: Mr. Chairman, I have no difficulty with the amendment proposed by Sen. Daly.

Sen. Daly: Thank you, hon. Attorney General. That is very good of you.

Question put, That clause 5, as amended, stand part of the Bill.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6.

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

Sen. Daly: I propose a similar amendment to clause 6 as follows:

Insert after the word "authorise" in line 5, the words "with the approval of the Minister."

Mr. Sobion: The response is similar.

Question put, That clause 6, as amended, stand part of the Bill.

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Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 ordered to stand part of the Bill.

Clause 8.

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

Sen. Daly: We have the same problem.

Mr. Sobion: I beg to move the following amendment to clause 8:

Delete paragraph (a) and the letter "(b)" occurring at the commencement of the subsequent paragraph.

Question put, That clause 8, as amended, stand part of the Bill.

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

Clause 9.

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

Mr. Sobion: I beg to move an amendment to clause 9 as follows:

(a) Delete subparagraph (a)(i), and renumber paragraphs (ii) to (iv) as (i) to (iii): and

(b) Substitute the following for paragraph (b) —

"(b) by deleting subsection (2), and substituting the following:

"(2) An approved enterprise shall notify the Company of any purchase, assignment or transfer of shares in or by that enterprise, within fourteen days of such purchase assignment or transfer."

Question put, That clause 9, as amended, stand part of the Bill.

Clause 9, as amended, ordered to stand part of the Bill.

Clause 10.

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

Sen. Mansoor: Mr. Chairman, there is a matter with respect to clause 10. I proposed an amendment to section 17. I made an error in calling it clause 17. I

was really referring to section 17 of the Parent Act. May I suggest that we deal with this towards the end?

Mr. Chairman: It was proposed as an amendment to clause 10, therefore we will have to deal with it at this stage.

2.40 p.m.

Sen. Mansoor: Mr. Chairman, the amendment to clause 10 of this Bill, basically seeks to deal with the problem of a manufacturer in the free zone exporting into Trinidad and Tobago. The amendment which I propose, is really a follow-on to the administrative order which Minister Valley referred to on the last occasion. Minister Valley said, in respect of all manufacturing activities in the free zone, there is a maximum limit of 20 per cent of the production of those approved enterprises that could be imported into Trinidad and Tobago.

This amendment seeks to do two things. Firstly, it seeks to put into the law that administrative order. Secondly, it seeks to say that wherever goods are manufactured in Trinidad and Tobago, indeed, in the Caricom, that free zone manufacturers should not be able to export into Trinidad and Tobago at all.

What has happened, Mr. Chairman, is that I have drafted the amendment in this particular way. However, I got some free private lessons in drafting within the last five minutes and there is already typed, another version of this amendment. I do not know if the Attorney General would wish to consider this. This is why I am asking for a deferral.

Clause 10, by leave, deferred.

Clauses 11 to 13 ordered to stand part of the Bill.

Clause 14.

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

Mr. Sobion: Mr. Chairman, we have an amendment to clause 14, it is on the first list of amendments. It seeks to correct what was a typographical error.

"14 In the penultimate line of the proposed section 22(1)(c) delete the word 'quality' and substitute the word 'quantity'".

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

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Clause 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Mr. Sobion: Mr. Chairman, I beg to move that clause 16 be amended as follows:

"16 Delete the proposed section 24(4)."

Mr. Chairman, there is a further amendment to clause 16 on the supplemental list which we did not raise.

Mr. Chairman: I cannot identify this amendment at all.

Mr. Sobion: Mr. Chairman, I, also, cannot seem to identify that amendment at all. I think we should proceed on the basis of the amendment proposed on the original list, which is the deletion of clause 24(4). I would suggest that we proceed to clause 17.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clauses 17 and 18 ordered to stand part of the Bill.

Clause 19.

Question proposed, That clause 19 stand part of the Bill.

Mr. Sobion: Mr. Chairman, there is an amendment to clause 19, it appears on the original list of amendments. It states:

"19 In the proposed section 27A -

- (a) delete the words "for an approved activity" occurring in line four of subsection (1), and lines three to four of subsection (2); and
- (b) in subsection (2), insert the word "and" immediately after the word "Act" occurring in line seven."

These are purely drafting matters, Mr. Chairman.

Question put and agreed to.

Clause 19, as amended, ordered to stand part of the Bill.

2.50 p.m.

Clauses 20 to 22 ordered to stand part of the Bill.

Clause 23.

Question proposed, That clause 23 stand part of the Bill.

Sen. Mansoor: Mr. Chairman, I wish to propose an amendment which reads as follows:

"Add subclause (6)

Notwithstanding subsection 1-5, wherever an approved enterprise exports goods or services to the Customs Territory or Caricom, the proportionate profits in respect of these exports shall be subject to income tax, business levy or any other tax in respect of sales, receipts, profits or gains."

The Minister represented to the Senate last Tuesday that the profits in respect of exports into Trinidad and Tobago, which I believe is called the customs territory, would be subject to taxation, such that there would be harmonization between a person exporting into Trinidad and Tobago from the free zone and people operating within Trinidad and Tobago.

Sen. Prof. Spence: I also have an amendment to Clause 23, Mr. Chairman.

Sen. Mansoor: Mr. Chairman, I may add that when the Minister indicated that this was the intention of Government, I expressed my fears that the onus that one would put on the Board of Inland Revenue to determine these profits is quite a significant burden, having regard to the ways of the world. However, I think that on balance this would give the Board of Inland Revenue some entrée into dealing with this problem.

Question, on amendment [Sen. Mansoor] put and agreed to.

Sen. Prof. Spence: Mr. Chairman, I propose an amendment to clause 23 which reads as follows:

"At the end of the proposed section 33(1), (2) and (3) add the words 'for a period not exceeding ten years.'"

This is really intended to put a limit to the tax concessions that are being proposed. I may say that this is an amendment which some years ago Sen. Valley would have agreed with. To have a concession "in perpetuity", is to take a

pedestrian approach to economic decision-making. That apart, I really do feel that we should not have this sort of provision in this.

Mr. Valley: Mr. Chairman, I explained in my winding up on the last day that the benefit is similar to what the firm outside of the EPZ would gain if it is exporting to extra-Caricom, and it is only in that situation the firm would be earning that. Therefore there is no need to have the amendment. The feeling is that—I am coming back to the same concept my Friend does not like—the psychological disadvantage of doing that would be great and I would want to leave it as it is at this time. I argued on the last day whenever we are restricting the application of the export allowance, that would be the appropriate time to restrict the application of this "in perpetuity" role under the EPZ regime. So that, Mr. Chairman, I would want to leave it as it is at present.

Sen. Prof. Spence: I would certainly not withdraw the amendment, Mr. Chairman. The only concession that I would make is if we were to frame an amendment which said that after 10 years in order to continue the concession there would have to be a recourse to Parliament. If the Minister would want to frame a resolution which says in 10 years time in order to continue it we have to come back to Parliament, that I would agree with.

Mr. Valley: Mr. Chairman, what I am saying, really, I do not think that at this time, given the positioning of the Government, the fact that we are out there looking for investment, that we should send that type of message. I am saying that this is the most inappropriate time to do that. The benefits under the Act does not provide any advantage that a firm would not gain otherwise, and while I take the point that these types of tax benefits ought to be limited, I am saying that this is a most inappropriate time to do so, or to send any other message.

Sen. Mansoor: Mr. Chairman, if I may just support Sen. Spence and to say that most investors would consider 10 years very ample. All Sen. Spence, I believe, is now proposing is that basically it gives Parliament an opportunity to revisit the matter, very much as we do with, I think, land and tenancies and so on, where one can perpetuate rent control, for example—that is the example I am thinking of—every three years I believe it is. So that essentially what I think Sen. Spence, in his amendment to his amendment is saying, that at the end of 10 years, which is very ample, it would be subject to resolution of Parliament. So that it is not that it would not be given, but that it would be looked at once again. I say, 10 years because most people would have recovered, I think, their investment in 10 years. If they had not, I do not think they would make the investment.

Mr. Valley: Mr. Chairman, I want to ask the Senators to really look at what they are doing. They are talking about two things. If we say that we are going to review this in 10 years, are we going to review each approved state enterprise tax position every ten years? If we are talking about reviewing the application of the tax free status in perpetuity in ten years, then it means the firm in year nine would have that insecurity as to whether it is going to—If you are talking about the approved enterprise, looking at it and reviewing it in 10 years, obviously we are undertaking a real burden, having to review each enterprise when its 10-year time is up.

I am saying that while I take the point made by Sen. Mansoor that most firms would be satisfied with a 10-year tax holiday, I think it is a selling point at this time. Parliament can review any piece of legislation on Motion at any time. I do not think we would gain anything and I think we would be sending a wrong message if we were to put that in the legislation at this time.

3.00 p.m.

Sen. Daly: Mr. Chairman, since we are talking about messages, what about the message being sent to the locals? We do not get any concessions. Our taxes are remaining the same—in some cases we hear they may be going up—and we know what is happening on the prices side. Is it free for foreigners and tax for locals? I do not like this message thing we are talking here. If it is accepted by the Minister that 10 years is sufficient for a businessman, what is the problem? Do we have to keep telling everybody that everything in Trinidad and Tobago is free for them? Is that the only way we are going to get any business here? I do not accept that. If the Minister accepts that 10 years is ample, I am not happy to hear anything about messages. We have to live here too and we are not getting any concessions.

Mr. Valley: Mr. Chairman, I made the point that it is not correct to say that local firms are not getting any concessions. The local firms would be in a similar position to a firm in the EPZ. To the extent that the local firm is exporting extra Caricom, that firm pays no tax on those—

Sen. Persad-Bissessar: In perpetuity.

Mr. Valley: In perpetuity, as long as it continues exporting extra Caricom, it pays no tax. If the firm is exporting 100 per cent of its products to Venezuela, it pays no tax, which is a similar position according to the law at this time. If we were to change one at any point in time, then we would change the other.

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The other thing, is that Senators would know that in the budget of this year the marginal rate of income tax went down with respect to individuals so it is not correct to say, as Sen. Daly is alluding, that—

Sen. Daly: The Minister of Finance says it is going up.

Mr. Valley: I did not hear that.

Sen. Daly: May be he is not talking to you.

Mr. Valley: I do not know.

Sen. Daly: Mr. Chairman, what I am saying has been completely misunderstood. I am not comparing exporters. I am comparing foreigners and locals regardless of whether they are exporting, importing or in the service business. I am getting very fedup of the tax burden being borne by the local businessmen only, while foreigners are given endless concessions. I challenge whether it is the only way we can get new business by giving a tax holiday for longer than 10 years. It has to stop. We cannot keep saying everything is free for foreigners and there are no concessions for locals.

Mr. Valley: Mr. Chairman, the whole premise is incorrect. The local investor may get involved in the EPZ and gain these benefits also. There is no distinction between foreigners and locals. The whole premise is wrong.

Sen. Daly: Mr. Chairman, it has nothing to do with investors only. It has to do with the fact that local people, whatever they are doing, have to pay all the taxes and prices and we are giving every single thing to foreigners; free passes in the airport, free priority bus passes and everything thing that ordinary people cannot get in this country. Where are we stopping?

Mr. Valley: Mr. Chairman, I would just say that I do not know anything of those matters.

Sen. Rev. Teelucksingh: Mr. Chairman, first of all I support the amendment. I would like to ask the hon. Minister: What is so wrong, and how forceful a deterrent would it be, if among all these taxes an EPZ investor cannot be asked to pay at least one tax? Only one. This is the only way I would support this Bill. The Minister has a long list, and I agree with Sen. Daly and what he had to say. Could it be corporation tax? Please advise me. Could it be business levy? Just choose any one and I would support the Bill. I do not think it is fair. The people come here, pollute our rivers and air; use the facilities and we have to provide the infrastructure for them and they make no contribution whatsoever.

If you make a concession, only one concession, I would support this Bill, otherwise I cannot support it.

Mr. Valley: Mr. Chairman, I appreciate that—

Sen. Mansoor: Mr. Chairman, if I may come to the support of the Minister. I believe that in accepting the amendment to clause 23, we have already made some of the activities of the free zone companies subject to tax. In other words, when ever they start doing business with Trinidad and Tobago, the profits made on those activities would be subject to tax.

Sen. Rev. Teelucksingh: Is that clause 6.

Sen. Mansoor: Yes, clause 6, which I believe has already been passed. We may have, inadvertently, satisfied one of your requirements.

Sen. Rev. Teelucksingh: Can I ask this question about that clause 6? If an EPZ investor exports—his business is outside—to England and North America, it means that all of these concessions apply to him?

Sen. Mansoor: Precisely, but—

Sen. Rev. Teelucksingh: This is the person I am getting at.

Mr. Valley: That applies also to a firm outside of the EPZ. That is the point I have been trying to make. The firm outside of the EPZ, if he exports 100 per cent to England, 100 per cent to New Zealand, he gets the same benefit. The EPZ does not give an additional benefit to such an exporter.

Sen. Rev. Teelucksingh: Then let all of them pay something. That is what I am saying. Let all of them pay something.

Mr. Valley: I am saying that when we come to that point, we would want to do so. At this time, we are bullish on investors. We want investors to come here to locate and export to New Zealand, Venezuela, Columbia and so forth. Therefore, it is inappropriate to put that type of constraint.

There would come a time when we would close the window. I am saying that this is not the appropriate time, Senator, and I am asking for your support in the short-term. At some point, I would come back to this House to close the loophole, when investments start flowing in the non-oil sector.

Sen. Rev. Teelucksingh: I feel 10 years is too long anyhow.

Mr. Chairman: Sen. Prof. Spence, do you want to withdraw your amendment?

Sen. Prof. Spence: No, I do not want to withdraw it, Sir. I would prefer that we vote on it.

Question put.

The committee divided: Ayes 14 Noes 14

AYES

Mark, W.

Capildeo, S.

Barrack, J.

Persad-Bissessar, Mrs. K.

Burke, B.

Mejias, O.

Mansoor, M.

Spence, Prof. J.

Mahabir-Wyatt, D.

Daly, M.

Dean, E.

Mahadeo, Miss C.

Teelucksingh, Rev. D.

St. Cyr, Dr. E.

NOES

Huggins, Hon. R.

Barnes, Hon. B.

Yuille-Williams, Hon. J.

Draper, Hon. G.

Robinson-Regis, Hon. C.

Callender, S.

Ojah-Maharaj, D.

Elder, Miss J.

Rahael, J.

Hassim, A.

Maloney, A.

Nanga, J.

Lewis-Phillip, Mrs. N.

Mahabirsingh, S.

Mr. Chairman: The result of the Division is 14 for and 14 against. The Chair would make a casting vote and the guidelines are very clear.

On the question of a casting vote, the opinion of the Chairman does not come into any particular loyalty and that he always votes to leave the matter open for further discussion.

Therefore, the casting vote would be against the proposed amendment and would be left open.

Amendment negatived.

3.10 p.m.

Question put and agreed to.

Clause 23, as amended, ordered to stand part of the Bill.

Clause 24 ordered stand part of the Bill.

Clause 25.

Question proposed, That clause 25 stand part of the Bill.

Mr. Chairman: There is a proposal for a new clause 25 and that would have to be taken after.

Question put and agreed to.

Clause 25 ordered to stand part of the Bill.

Clause 26 ordered to stand part of the Bill.

Clause 27.

Question proposed, That clause 27 stand part of the Bill.

Mr. Sobion: Mr. Chairman, there is an amendment to clause 27. It is on the original list of amendments as circulated and it is a redraft of the provision relating to penalty for false information.

Mr. Chairman, I beg to move the amendment to clause 27 as follows:

A. Delete the proposed section 40(1) and substitute the following:

"Penalty for false information	40. (1) A person who -	
		(a) makes a false statement or representation;
		(b) declares any false returns; and
		(c) keeps or prepares false accounts, in respect of any fiscal benefits created under this Act, is guilty of an offence and is liable on summary conviction to a fine of eight thousand dollars and to imprisonment for three years."

B. In paragraph (e), insert after the word "(5)" the words "as renumbered."

C. In paragraph (f), delete the word "(7)" and substitute the word "(6)."

Question put and agreed to.

Clause 27, as amended, ordered to stand part of the Bill.

Clause 28.

Question proposed, That clause 28 stand part of the Bill.

Mr. Sobion: There are several amendments to clause 28 which are basically of a tidying up nature. For example, the first amendment appearing at A is to refer to the correct section 3(2) as opposed to section 3(1) as it appears in the Bill.

Similarly the matters at B and B which follow on the original list of amendments are really tidying up provisions. We ask that all the amendments at A B and C be taken together, Mr. Chairman.

Mr. Chairman, I beg to move the amendment to clause 28 as follows:

In the proposed section 41(1) -

- A. Delete the words "3(1) occurring in the fifth line and substitute the words "3(2)".
- B. In subsection (1) -
 - (1) delete the word "and" occurring at the end of paragraph (a) and substitute for the word "behalf" at the end of the proposed paragraph (b), the words "behalf or;"
 - (ii) insert a new paragraph (c) as follows:
"(c) as a consequence of section 40(2)."
- C. In subsection (2) -
 - (i) delete the words "section 26" occurring in the last line of paragraph 2(c) and substitute the words "section 26; or;"
 - (ii) insert a new paragraph (c) as follows:
"(e) as a consequence of section 15(6)."

Question put and agreed to.

Clause 28, as amended, ordered to stand part of the Bill.

Clauses 29 to 32 ordered to stand part of the Bill.

Clause 33.

Question proposed, That clause 33 stand part of the Bill.

Mr. Sobion: Mr. Chairman, there is an amendment on the last supplemental list which provides for the deletion of clause 33 for drafting purposes. We have reintroduced the wording of clause 33 in a new clause 25(a).

Question put and agreed to.

Clause 33, by leave, deleted

Mr. Chairman: Sen. Mansoor, you had a proposed new clause 17B.

New Clause 17B.

Sen. Mansoor: Mr. Chairman, I propose a new clause 17B which reads as follows:

- (1) The company shall not grant approval to any person to carry on manufacturing activities except:-
 - (a) in the case of items not manufactured in Caricom on the manufacturer's undertaking not to export more than 20% of its output to Caricom;
 - (b) in the case of items manufacture in Caricom on the manufacturer's undertaking not to export any of its output to Caricom.
- (2) Breach of a manufacturer's undertaking given with their section may result in revocation of approval.

New clause 17B read the first time.

Sen. Mansoor: Yes. Mr. Chairman, if we may come back to clause 10 of the amendment and the proposed new clause 17B of the parent Act. Very briefly the purpose of the amendment is to essentially ensure that manufacturers in the free zone are not able to use their free zone and tax free status to unduly disrupt manufacturers within the customs territory, that is, Trinidad and Tobago.

So that if one is going to export into Trinidad and Tobago one must do so only up to 20 per cent of one's production if that item or that group of items is not manufactured in Trinidad and Tobago. If, however, the item is manufactured in Trinidad and Tobago—and I think there is a 70 per cent requirement in the duty legislation—and someone wants to manufacture that same item in a free zone, he must do so on the undertaking that he would not export into Trinidad and Tobago his production, or into Caricom.

I do not know whether Caricom is dead or not. I would suggest to the Minister, if he is of the view that Caricom is dead, that we could remove the word "Caricom" and say "customs territory," that is, Trinidad and Tobago, and that may assuage the force of this in some respect.

It is very important for us to ensure that manufacturers within the customs territory are not put at an undue disadvantage when there is a free zone company using the advantage of location to disrupt and "mash up" effectively existing manufacturers who have operated here for the last 25 years.

Mr. Valley: Mr. Chairman, subject to the drafting of the Bill we have no problem with the concept of customs territory rather than Caricom.

I am not of the view that Caricom is dead, however.

Sen. Mansoor: Then it should remain that way.

3.20 p.m.

Sen. Rahael: Mr. Chairman if I be allowed. Sen. Mansoor one of the problems I am seeing with clause 17 (1) (b) is if a manufacturer is producing in a free zone in Jamaica, he is allowed to export to Trinidad and Tobago providing that the importer in Trinidad and Tobago will pay the duties and all the necessary taxes as if the importer is importing from Japan. It is the same as if someone is in the free zone in St. Kitts, or where free zones may develop in the future. Therefore, if I am a local or foreign potential investor, I will chose to go to Jamaica where I can export into Trinidad and Tobago providing I pay whatever tariffs and duties I have to pay.

Sen. Mansoor: Except that, there are two things with respect to imports or exports. There is a freight matter which you have to think about. Let us take building blocks. There are two barriers of imports to building blocks in Trinidad and Tobago. One is the freight where you have to ship it from where it comes and the tariff barrier. Tariff barriers are coming down, so if you completely remove freight, which will happen in the circumstances I am thinking about, it means that the local man does not have a chance.

Hon. Member: You do not really have an argument.

Sen. Mansoor: We do have an argument. If you change it to customs territory, that is fine, but it does not stop the difficulty to which he is referring.

Mr. Valley: It does because customs territory means Trinidad and Tobago. He is saying that in such a case the EPZ enterprise here can export to Jamaica as long as the importer there would pay all the customs duties, whereas your formulation would say that he cannot export to Jamaica at all.

Sen. Mansoor: This is why I asked: Is Caricom dead or not?

Mr. Valley: No. It is not dead. The point he is making is that if the Jamaican EPZ can export here, then he is saying that we should be able to export there. What you were saying is that you want to protect the local firm in Trinidad and Tobago. I am saying that you are on the same wave length. There is no argument.

Sen. Mansoor: I think you are signing the death certificate. Go ahead.

Sen. Persad-Bissessar: Are you saying that an investor would prefer to set up in Jamaica than to set up in Trinidad? Even if we change the words to customs territory, then it would be better for him to set up in Jamaica because he could export to Trinidad.

Mr. Valley: If you say Caricom it is going to make a difference. We will change it to custom territory and we would accept the amendment.

Sen. Prof. Spence: Mr. Chairman, may I make the point that the Caricom market is also a market the Trinidad manufacturers are targeting. If we change it to custom territory, in my opinion, we still may be disadvantaging our own manufacturers. I think one wants to understand that if an EPZ manufacturer is really in business to export, for example, to exploit the Latin American market, 20 per cent of his production may in fact be the whole Caricom market. That means that he is competing against the Trinidad manufacturer in the Caricom market.

Mr. Valley: The local manufacturer can export to Jamaica without the CET. The firm in the EPZ would pay the CET rate as though he was exporting from Japan or the United States. That is the protection that the local manufacturer would have.

Sen. Prof. Spence: What would the CET rates come down to given that these concessions are in perpetuity?

Mr. Valley: Agreed. The fact is the local manufacturer is not worst off because he would face the same competition from the firm where it is operating today, because that firm can sell to Jamaica the same way and pay the duty.

Sen. Mansoor: When a Trinidad manufacturer ships to Jamaica does he pay taxes on those? When the Trinidad manufacturer sends stuff to Jamaica he does not get the export allowance because it is with respect to export outside of Caricom. In other words, the tax freeness if you will, does not apply to exports on Jamaica. It only applies to export outside of Caricom.

Mr. Valley: We are not changing clause 23.

Sen. Mansoor: It has to be reciprocal.

Mr. Valley: We are talking about two things. The local manufacturer exports to Jamaica. He has to pay income tax on those.

Sen. Mansoor: You are saying that my free zone operator operating next door shipping to Jamaica—

Mr. Valley: He is paying income tax on it.

Sen. Mansoor: No.

Mr. Valley: Yes. Under your clause 23.

Sen. Mansoor: Yes. I understand. You are right. I take the point. I forgot clause 23.

Sen. Prof. Spence: It still means that the manufacturer in the EPZ who is targeting mainly a Caricom market is not paying tax on the major part of his production. He is certainly in a better position than a local manufacturer who is manufacturing for the Caricom market.

Sen. Rahael: If the EPZ exporter is going to export into Caricom, the duties will become applicable in that territory. He does not have an advantage with respect to duties in to the Caricom territory.

3.30 p.m.

Mr. Sobion: I wonder who advised the Senator on the drafting?

Sen. Mansoor: I am always open to private lessons.

Mr. Chairman: A correction has been made to subsection (2) of the new clause 17B. In the second line substitute the words "pursuant to" for the words "with their". It will read "given pursuant to section".

Mr. Sobion: Clause 17B(2) will now read:

"Breach of a manufacturer's undertaking given pursuant to this section may result in the revocation of approval."

Question, on amendment, put and agreed to.

New clause 17B, as amended, ordered to stand part of the Bill.

Mr. Chairman: There is one more new clause to be added.

New clause 14A.

Sen. Daly: Mr. Chairman, I propose a new clause 14A as follows:

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|-------------------------------------|-----|--|
| Directors to
declare
interest | (1) | 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 after the disclosure the member making it shall not vote on the matter, and unless the board otherwise directs shall not be present or take part in the deliberations of any meeting when the matter is being discussed or decided by the board. |
| | (3) | For the purposes of this Act, a director 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. |

New clause 14 read the first time.

Question proposed, That the proposed new clause 14 be now read a second time.

Mr. Sobion: We have no difficulty with that, Mr. Chairman.

Question put and agreed to.

Question proposed, That the new clause 14 be added to the Bill.

Question put and agreed to.

New clause 14 added to the Bill.

New Clause 25A

Mr. Sobion: I propose a new clause 25A as follows:

25A. The Act is amended by inserting after section 38, the following section:

"Savings and
Exemptions

38A (1) The amendments made to this Act by the Trinidad and Tobago Free Zones (amendment) Act, 1995 (hereinafter referred to as "the amending Act") shall not prejudice the existing approved enterprises, approved prior to the coming into force of the amending Act, and all existing rights of those approved enterprises shall remain in force.

(2) Any Orders, bye-laws or regulations made under this Act subsequent to the coming into force of the amending Act, may exempt an approved enterprise from the application of such Orders, bye-laws or regulations."

New clause 25A read the first time.

Question proposed, That the new clause 25A be read a second time.

Question put and agreed to.

Question proposed, That the new clause 25A be added to the Bill.

Question put and agreed to.

New clause 25A added to the Bill.

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

Senate resumed.

Bill reported, with amendment; read the third time and passed.

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[SEN. THE HON. R. HUGGINS]

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ORDER OF BUSINESS

The Minister of Social Development (Sen. The Hon. Russell Huggins): Mr. President, at the adjournment of the Senate on the last occasion, the Leader of Government Business had given the undertaking that we would commence debate on Item No. 5, under Private Business, popularly known as the public holidays debate. I seek the Senate's leave at this time to proceed with Item No. 5.

Leave granted.

JOINT SELECT COMMITTEE REPORT

(PUBLIC HOLIDAYS)

Adoption

The Hon. Minister of Consumer Affairs and Minister in the Office of the Prime Minister (Sen. The Hon. Camille Robinson-Regis): Mr. President, I move the following Motion standing in my name:

Be it Resolved that this Senate adopt the Report of the Joint Select Committee appointed by the Senate and the House of Representatives to consider the entire question of public holidays and to report by March 31, 1995.

Before I go into the consideration of the report I would like to make the observation that on two occasions prior to the laying of the final report, the Joint Select Committee presented special reports to Parliament requesting additional time to deal with this matter. These occasions finally resulted in the final report being laid after April 28 of this year.

Mr. President, the report which is before this Senate came out of 15 meetings of the Joint Select Committee and several intra-committee meetings held between selected members of the committee.

I also take this opportunity to commend those members of the parliamentary staff who sat through those 15 meetings and the special meetings of the sub-committee of the Committee in order for us to arrive at the final report which is before this Senate today. I must state that the staff of the Parliament were very professional in their dealings with the Committee, and I think this is an opportune moment to commend them on the way they assisted the Committee and, indeed, the task they undertook to ensure that the Committee was provided with all assistance necessary to come to this final report and to deliberate very carefully on the resolution that is now before this Senate.

In addition to this, I would like to take this opportunity to state that the terms of reference of the Committee were very clear and were such that made

deliberation on this matter, one that initially gave the impression that it may have been a simple task. If I may recite the terms of reference, they were stated to be:

"To consider the entire question of public holidays and to report by March 31, 1995."

On first looking at the terms of reference the Committee felt that this may have been a simple task, but on careful consideration, we recognized quite early that it was a task that demanded careful scrutiny by all members of the Committee.

3.40 p.m.

At times it was a task that we felt left us between a rock and a hard-place, and perhaps, even moreso, it was a task that demanded—if I may repeat what was said at one point—the wisdom of Solomon.

Two reports have been laid, a Majority Report, and unfortunately, because there was not complete consensus on all issues, there is also a Minority Report. The Report which this Senate is being asked to adopt is the Majority Report. Let me spend some time indicating what was expected of the members of the committee which was appointed to deliberate on this question, and indeed, to spend some time on how the committee pursued arriving at its final report.

We took the opportunity to build on the work of a previous committee that had been appointed to examine this question. That committee had received memoranda from several organizations, previous to the appointment of this committee whose Report is now before this Senate. This committee determined to build on the information that had gone before that prior committee; we invited several organizations to write their opinions to the committee; those who wrote opinions previously and some who did not; we invited those who would be willing to appear before the committee, to be questioned by Members to ascertain what their feelings were on the question of public holidays; and perhaps, more narrowly, to ascertain what their feelings were on the holidays that they specifically wanted for their organizations.

Mr. President, 21 organizations came before the committee and as a consequence the committee determined that there would be need to perhaps divide the consideration of the issue of public holidays into religious and secular holidays, and to some extent, those secular holidays to be divided into holidays of historical significance.

As the committee deliberated, it was felt, by consensus, that several holidays that were already in existence should be retained. I must make the point that as the committee did its work, it was also guided by the existence of the Public Holidays and Festivals Act, Chap. 19:05 which states quite clearly what a public holiday means. Section 2 of the Act states, and I quote:

"In this Act, the expression "public holiday" means a close holiday in banks and public offices in Trinidad and Tobago."

Mr. President, if I may read part of section 3(1), it says:

"Subject to this Act, the several days set out in the Schedule are public holidays in Trinidad and Tobago."

If we go to the Schedule, we will see that the following public holidays were stated. These are:

"New Year's Day, Good Friday, Easter Monday, Whit Monday, Corpus Christi, Labour Day, Emancipation Day, Independence Day, Republic Day, Christmas Day, Boxing Day, Eid-ul-Fitr and Divali."

As the committee considered these holidays which had been legislated for, we determined that if we were to consider the entire question of holidays we had to come to a decision on whether or not all these holidays should be retained; and indeed, on whether or not new holidays should be incorporated. It was agreed that New Year's Day, Good Friday, Corpus Christi, Labour Day, Emancipation Day, Independence Day, Republic Day, Christmas Day, Divali and Eid-ul-Fitr be retained. Mr. President, indeed, it was by consensus agreed that these days should be retained.

While we considered the days to be retained, there were certain days on that list which we felt should be given particular consideration, given how the celebration of these days had developed over time in our society. I would like to take this opportunity to spend some time on what the considerations of the committee were with regard to some of these days.

With regard to Republic Day, it was felt by the majority of the committee that Republic Day was not celebrated in a way that properly reflected the significance of that day to the history of Trinidad and Tobago. To some extent it was felt that Independence Day was celebrated in such a way that the historical significance of Independence Day was properly recognized, but the significance of Republic Day was lost somewhat in the celebrations, particularly because the celebrations tended to be quite low-keyed.

3.50 p.m.

As a consequence of this recognition, the committee was of the view that Republic Day should be celebrated in such a way that it was a structured programme of celebration, in that the state, religious organizations, non-governmental organizations and particularly schools, should be involved in a particular way which would be worked out over time, that would properly reflect the importance, not only of Republic Day as it has been recognized historically, but, perhaps, as a day of thanksgiving in Trinidad and Tobago.

Indeed, the majority of Members of the committee felt that there should be some day specifically set aside as a day of, perhaps, National Heritage or Thanksgiving in Trinidad and Tobago. It was felt that dependant on how the celebrations were structured, Republic Day could, in fact, be seen as that kind of day that would not only celebrate the historical significance of Trinidad and Tobago attaining Republican status, but also the significance of a national day of Thanksgiving.

With regard to Boxing Day, even though it was agreed that Boxing Day should be retained on the schedule, it was felt that, to some extent, the original significance of Boxing Day had been lost, but it was felt that it was important for Boxing Day to be retained. Generally it was felt that Boxing Day had become a day of family celebration, and consequently it was important in the theme of maintaining a sense of family within Trinidad and Tobago and of giving families the opportunity to commune together, that Boxing Day was important for that reason, and consequently Boxing Day should be retained.

One of the public holidays which it was felt could be removed from the schedule was Whit Monday. Generally, the committee was of the view, even after hearing deliberations from the Christian community, that the Christian religious feast of Pentecost which is normally celebrated on Whit Sunday did not necessarily warrant a holiday to be designated Whit Monday. Indeed, it was agreed that the feast of Pentecost was celebrated by the Christian church on Whit Sunday or Pentecost Sunday, and consequently, the feast day was the Sunday.

Indeed, the committee in its research and in coming to this decision looked very carefully at the point that Whit Sunday or the feast of Pentecost does, in fact, commemorate the descent of the Holy Spirit on the disciples and marks the beginning of the Christian churches' mission to the world. The point was also raised that this feast day, if it is looked at in its historical perspective, coincides with the Jewish feast of Pentecost which was a thanksgiving for the first fruits of

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the harvest. Indeed, even if it is looked at further along in history, it is seen that the Jewish Rabbis associated this period of time with the giving of the Ten Commandments by God to Moses at Mount Sinai.

The Christian churches' transformation of the Jewish feast to a Christian festival was related, therefore, to the belief that the gift of the Holy Spirit to the disciples was the first fruits or the harvest of a new dispensation that fulfilled and succeeded the Mosaic laws.

Further, in the old church, the entire 50-day period between Easter and Pentecost was called Pentecost and baptism was administered at the beginning and the end of this season. Eventually Pentecost came to be called White Sunday, because the new converts or those who were being baptized were asked to wear white. Over a period of time, indeed, by 1549, it was eventually called Whit Sunday. The "e" had been dropped.

It was felt that the day of celebration recognized by the Christian church was the Sunday, and, indeed, the Christian feast day is consequently the Sunday and not the Monday and it was felt by the committee that Whit Monday could properly be excluded from the schedule of public holidays listed in the Act.

The committee also received several requests for new public holidays. I would like to take the opportunity to list the number of requests that the committee did, in fact, receive. They were for Indian Arrival Day, Phagwa, the birth date of Shango, a day to commemorate the removal of prohibitions on Spiritual Baptists, a day to commemorate the start of the mission of Bahauallah, a day to commemorate Eid UL Adha, the NJAC march from Port of Spain to Caroni which aimed at fostering unity among the major ethnic groups of Trinidad and Tobago, a day to be called Martyrs Day to commemorate citizens who were killed in pursuit of their religion and/or culture, a day of national re-dedication—Heritage or Thanksgiving and Carnival Monday and Tuesday.

We had a total of 11 requests for new public holidays. In considering these requests, the aim of the committee was to move toward a situation where several things would occur in the society as a public holiday was observed. One of the major things that was considered was whether public holidays affected the productivity and the work ethic of the working community of Trinidad and Tobago.

4.00 p.m.

There were arguments raised that, indeed, public holidays reduced the level and quality of productivity of the working population of Trinidad and Tobago. As

the discussions proceeded, it was felt, and the decision was arrived at, that in a country like Singapore where there are at least 18 public holidays, the level of productivity appears not to be affected by the number of public holidays.

It was also felt that in isolation, the issue of public holidays could not be blamed for the lack of, or, indeed, for the level of productivity in any country. And, indeed, it was felt that in considering the level of productivity and how it relates to public holidays, the entire question of the work ethic had to be considered. It could not be a situation where the issue of productivity could have been narrowed to the amount of public holidays or the lack of public holidays in any society.

Indeed, the committee was of the view that productivity needed to be examined in its widest sense, and, the entire question of the work ethic needed to be examined. There appeared to be no clear correlation between the number of public holidays and productivity. Although it was felt that, quite clearly, if the work ethic and the issue of productivity had to be examined, they should be examined in their widest context. The committee was not set up for that purpose, but the committee felt that its report could signal that the issue of productivity and the work ethic needed to be examined on a larger scale.

Consequently, it was felt by the consensus of the committee that there was no direct relationship between the number of public holidays and the level of productivity and that the issue of productivity was wider than narrowing it to the number of public holidays.

As I stated, there were 11 requests for new public holidays. The committee felt that it could by no means, accommodate all those requests. Consequently, there needed to be some determination of what could, in fact, be considered, and the committee went about this considering each of these requests, as its terms of reference allowed it, and then determined what should, in fact, be the report of the committee.

I would like to state that the committee heard several requests from organizations and individuals to have May 30 proclaimed a public holiday to be named "Indian Arrival Day". The committee felt that May 30 should be proclaimed a public holiday and the report states so quite clearly.

In determining the name to be given to that day, the major issue which occupied the committee was whether the day should be named "Indian Arrival Day" or just "Arrival Day". Indeed, this particular question was put to a vote and the decision was taken to name the day, May 30, Arrival Day. The majority felt

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that there was no clear need to have a racial epithet placed before the name of the holiday.

Indeed, as the committee examined this entire issue of public holidays, one of the underlying concerns and considerations of the committee was that of emphasizing the issue of unity in diversity. The question of emphasizing that as a diverse society we must have opportunities to recognize and celebrate that diversity, but at all times the question must be that unity be maintained.

Consequently, it was felt by the majority of the committee that the day should be called Arrival Day and that is one of the recommendations of the report which is before the Senate today.

Mr. President, with regard to two other significant requests for public holidays, I would like to talk about the request of the Orisha for the birth date of Shango to be declared a public holiday and for the requests of the Spiritual Baptist for March 30 to be declared "Liberation Day".

As the report which is before this Senate clearly states, the committee did consider these requests which were made by individuals and organizations that appeared before the committee.

The committee did not take these requests lightly. Indeed, I must state that the committee took no requests for public holidays lightly. As the report clearly states, the committee, by a majority, was of the view that both dates should be recognized as public festivals or public feast days.

4.10 p.m.

That recommendation was made in light of Chap: 19:05 of the laws of Trinidad and Tobago. Section 55 (i) states in part:

" the President, may, by Order, declare any day to be a day of Public Festival in Trinidad and Tobago..."

This is what the law states in part. As a consequence of this law, the committee felt that these days, which are significant days, could be commemorated as public festivals or public feast days.

I take this opportunity to give this Senate some idea of the significance of a feast day or festival day as is recognized by any right-thinking society. Indeed, it is clear that throughout the history of mankind certain days or periods of time have been set aside—and I stress, set aside—to commemorate, celebrate or reenact certain events which have played a crucial role in the history of any society or of any people.

Feast or festival days are used to give meaning and cohesion to an individual's religious, political or socio-economic community, and I stress, are used to give meaning and cohesion to an individual's religious, political and socio-economic community. Most feast days or festival days are religious in origin, and indeed, the two that the report recommends to be termed feast or festival days are of that ilk. They are religious in origin, they tend to be rich in symbolism and have in the past, and indeed, operated as informational tools relating to various aspects of culture, religion and of history, especially in a society as ours which is multireligious and multicultural. What has been recognized over time is that feast and festival days tend, after a while as more people participate in those days, to serve as cohesive devices, which are desirable for our society.

Mr. President, feast or festival days give an opportunity for the society to examine the beginnings or the impulses for institutional changes and for a re-examination of how various groups in the society view other groups. Consequently, the Majority Report states quite clearly that given the significance of those two days and the fact that the objective is to ensure a recognition of various sectors in the society and to move towards cohesion in the society; and further given the background of what a feast or festival day signifies, the committee felt that both these days should be recognized as festival or feast days.

Unfortunately, during the deliberations of the committee there was some premature publication of the evidence which had been taken before the committee and of the committee's work. I think this is a good opportunity to state that as the Parliament develops and as more and more committees are asked to deliberate on particular issues, within certain parameters and terms of reference, it may be important for us to recognize that, at least with regard to the Senate, a breach of Standing Order 73, which talks about premature publication of evidence, is a serious matter. Even though we cannot state how this in fact, take place, it did take place and should be frowned upon by any committee that has to operate as a joint select committee or as a select committee of either House of Parliament.

It is important for persons to recognize that premature publication of evidence of such committees is in breach of the Standing Orders of the Parliament.

I would like to take this opportunity to indicate that a report is before the Senate. The Senate and the House of Representatives in their wisdom felt that in order for this question of public holidays to be given careful consideration, a Joint Select Committee was appointed. The objective of making such an appointment was to take the issue out of the full Senate or House of Representatives and to ask

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a subsection of each House to look at the issue over a specific period of time and report. Given the fact that the Senate or the House of Representatives has reposed a certain amount of confidence in the Members, that they have been asked to examine any issue on behalf of the entire body, after having time to deliberate and obtain evidence of a particular nature, the Committee should give the Parliament its report based on its specific findings, having considered the issue in detail.

Indeed, that is the objective of a Joint Select Committee and that is the objective of having a report of a committee so appointed before either House of the Parliament, indeed before this Senate on this occasion.

4.20 p.m.

It is important to note that the Joint Select Committee did in fact abide with the terms of reference that it was given and came with its report.

I would like to take this opportunity to summarize the recommendations of the Majority Report which are as follows:

With effect from January 1, 1996 the Schedule to the Public Holidays and Festivals Act, Chap 19:03 be amended:

- (1) To delete therefrom Whit Monday;
- (2) To add thereto Arrival Day as May 30;
- (3) The State invite religious bodies and relevant governmental and non-governmental organizations to prepare an appropriate programme for the observance of Republic Day by the national community as a day of thanksgiving and rededication;
- (4) Government declare March 30 a public festival to commemorate the lifting of the prohibitions on the Spiritual Baptist Shouter Movement;
- (5) Government declare a day in June a public festival to commemorate the birth date of Lord Shango. This date is to be arranged between the Orisha Movement and the State.

Those were the specific recommendations of the Majority Report that is before this Senate for adoption today. Unfortunately, the Committee did not arrive at a consensus in all things and consequently there is a minority report attached.

I beg to move that the majority report be adopted by this Senate.

Thank you.

Seconded by Sen. The Hon. R. Huggins.

Question proposed.

Sen. Wade Mark: Mr. President, today we debate a very important report on the whole issue of public holidays in the Republic of Trinidad and Tobago. Our national anthem calls for an equal place for every creed and race, meaning that all our people should be made to feel that they have a place and a stake in this beloved country since it belongs to each and every one of us.

What was the main task of the Joint Select Committee? The main purpose or task of the committee was to examine the entire question of public holidays and to report by a certain time. Obviously, this was not entirely achieved or even properly addressed by the Majority Report which we are now being asked to adopt and support this evening.

As far as we on this side are concerned, the Majority Report is manifestly inadequate and contradictory in content. There is a clear lack of intellectual coherence in the report of the said majority. The report, if you examine it carefully, fails miserably to anchor or locate public holidays in any contextual framework whether it be historical, philosophical, cultural or economical.

Why are public holidays necessary in the first place? What is the rationale or basis for public holidays? What kind of society do we have in Trinidad and Tobago today? What kind of society do we wish to construct, build and develop? The majority report offers little or no direction on these vital questions. It, therefore, fails to analyze objectively the totality of our society since public holidays have to be related to something. Public holidays are certainly not celebrated in a vacuum in any country. Our society is multi-ethnic, multi-cultural and multi-religious, and given this composition, the historical and philosophical background there are certain objectives that we should all seek to achieve such as harmony, social cohesion, social integration and solidarity in our Republic of Trinidad and Tobago.

If we look at the Majority Report carefully, it offers no vision for the country in terms of perspective, as we examine the issue of public holidays. As I said, we are striving towards achieving these lofty goals and objectives. This is why we would argue that the Majority Report appears to be intellectually deficient. It simply makes a series of blank statements whilst it offers little rationale or justification for some of its recommendations. In the absence of any philosophical or intellectual framework of analysis, the Majority Report simply

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attempts to engage in what I would like to describe as a plucking exercise. It appears to be plucking here and there.

4.30 p.m.

The report dodges the real issues, but this has been the PNM's approach to our society for years now. It has always dodged the issues, and the whole question of public holidays needs to be properly addressed. It is our view that a public holiday serves as a mechanism to cohere a society, and not to tear it apart as some would have us believe. Public holidays seek to achieve public integration and social harmony.

The Majority Report appears to be mortally fearful of challenging the prevailing status quo. Maybe the PNM's hands appear to be tied because it is mortally afraid of the ruling elite in our society.

Sen. Robinson-Regis: May I just make the point that the Joint Select Committee was not a PNM committee. One of the persons who was a party to the Majority Report was an independent Senator, and I do not know if I can state that that person is necessarily PNM. I think it is unfair for the Senator to state that it is a PNM report. That is a misleading and dishonest statement.

Sen. W. Mark: All right. If the Minister feels offended by my putting the PNM in the forefront, I will say it is a Committee report. I quote from subsection 9.1 on page 5 of the majority report:

"Your Committee considered the list of Public Holidays contained in the Schedule of the Public Holidays and Public Festivals Act, Chap: 19:03, and agreed that the following Public Holidays were sufficiently entrenched ..."

When I speak about the Government being afraid to challenge the status quo, it is evident in this statement that they believe that certain public holidays are sufficiently entrenched in our country and involve sufficient national participation in order to be retained as public holidays. I will go on to show why it is necessary in a country such as ours to have a new approach to this issue, when we are dealing with different forces, groups and ethnic interest.

So, the report of the majority—since my good Friend has a problem with my saying PNM—is fundamentally flawed from the very outset. The Parliament is being told that existing public holidays appear to be cast in concrete and the Committee appears not to be prepared to examine these holidays in the context of emerging needs and requirements. How did these holidays become entrenched in this country? How did they become relevant and how are they sufficiently

participatory? We did not get any answers to these questions in the Majority Report. Who entrenched those particular public holidays? *[Interruption]* Which class? Which group?

Of course, history has revealed precisely how our society came into existence. When we look at our Constitution, we have not seen any element which says that public holidays are entrenched and that they require a special majority. Why would this committee propose that these holidays are entrenched? Nowhere is such a commitment given except what the Committee advances in its report.

The authors of this report attempt to impose their own limited thinking on an entire nation. As far as we on this side are concerned, nothing is entrenched, nothing is constant, nothing is permanent except change itself. We in the UNC are not passive observers of change. We are active agents of change.

We ask the question: Why did the Committee not attempt to wipe the slate clean and re-evaluate our society in respect of public holidays in Trinidad and Tobago? We are now an independent nation. We are supposed to be paddling our own canoe. We are supposed to be pulling ourselves up by our own bootstraps, therefore, if the need arises for us to re-examine certain issues in the country, we must do so and do it fearlessly.

As you know, Mr. President, public holidays continue to be disproportionately allocated in Trinidad and Tobago. We have major stakeholders in our nation today. The group that ruled the country in the colonial period, between the period of Christopher Columbus and the period before independence, whilst they still exist and have influence, we are an independent nation. We, therefore, must examine the situation in a most objective way. We should view public holidays as organizing mechanism that bring about cohesion and not promote disintegration. This is the way we feel that it should be looked at. Our survival depends on our ability to act as one community. Public holidays constitute one of the most cost effective ways of promoting production and marketing and of mobilizing our people and our nation as a whole. One needs enlightened visionaries, not people who are closeted in the past and who are stuck in 14th and 16th century idea, to see society from that perspective.

Public holidays serve as reminders to the various stakeholders in our country of their monumental contributions and achievements. We would like to say that public holidays are not favours being granted to any section or any stakeholder in our society. They should be granted in recognition of a community's contribution to the development of our nation. Therefore, public holidays not only serve to

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mobilize large sections of our men and women, but it also guarantees them a stake in our society.

Mr. President: I think we will take the break at this stage. The sitting of the Senate is suspended until 5.10 p.m.

4.40 p.m.: *Sitting suspended.*

5.11 p.m.: *Sitting resumed.*

Sen. W. Mark: Mr. President, I was at the point where I was indicating that public holidays are not favours being granted to any section of our society. Public holidays give people a stake in their nation. They give people a sense of belonging, a sense of identity; they help to promote long-term economic development and economic viability; they help to address and promote identity among our people and also to build bridges regionally and internationally.

Let us make no mistake about it, there is a legitimate search for identity, for recognition and for a sense of belonging. This is taking place in our own country where various communities share limited land space. Each person has a right to search for his or her identity, each person has a right to promote racial pride. The rationale for such reflects the richness and the variety of our different cultures. It should be a source of inspiration for the whole community and country, because at the end of the day, it makes our entire nation stronger and it makes our country much more prosperous. That is why, Sir, we have to link culture to development because they are organically connected.

As you would know, Mr. President, there can be no meaningful development in any country without cultural recognition and cultural unity. We cannot have development by importing false models, slogans or fashions. Our development must come from our own efforts and our own exertions. It is because of the abject ignorance of the nature of our society and the critical importance of public holidays, and the absence of any direction and vision of the society that we see the Majority Report reflecting all these deficiencies and shortcomings.

We are therefore astonished, that the Manning administration would openly refuse to identify May 30 as Indian Arrival Day in our Republic. It is politically convenient to talk about arrival day, but we on this side ask the question, what is the Government afraid of? It was May 30 that the famous Fatel Rozack arrived here approximately 150 years ago. It brought indentured labourers to our shores, but the Manning regime seeks to dodge the issue. Everyone is expected to celebrate their arrival on this historic day, whether they are Chinese, Portuguese,

Syrians and we find this to be utter nonsense. It is the same thing that one would find in a number of other activities which the PNM has been engaged in.

It is our view that we must wipe the slate clean and we must come up with new approaches. If the slate is wiped clean, there is no logical or compelling reasons, for example, why our nation cannot celebrate Lord Shango Day, or why we cannot celebrate the Spiritual Baptists Shouter Liberation Day. As you know, Mr. President, we are in support of these two occasions being declared public holidays in our Republic.

As I said, the Majority Report offered little justification for leaving out the epithet "Indian" before "Arrival Day". We see no justification for refusing the Orisha Movement their request that sometime in June should be allocated as Lord Shango Day. Similarly, we see no rationale or justification for the Government refusing the Spiritual Baptists Shouter Liberation Day, March 30.

It is against this kind of background that we on this side reject the Majority Report and we support the Minority Report. I would like to move an appropriate Motion in order to address this particular issue. The Motion reads:

"Be it Resolved: that this Senate adopt the Report of the Joint Select Committee appointed by the Senate and the House of Representatives to consider the entire question of Public Holidays and to report by March 30, 1995".

I would like to amend it, Sir, to insert the word, "Minority" before the word "Report", so that the Motion now read;

"Be it Resolved that this Senate adopt the Minority Report of the Joint Select Committee appointed by the Senate and the House of Representatives to consider the entire question of Public Holidays and to report by March 31, 1995"

We believe that once there is agreement to these amendments, both the Spiritual Baptists and the Orisha Movement would be able to enjoy the days that they have been fighting for, for a very long time. We want to put on record that we are in complete support of the Spiritual Baptists Shouter Liberation Day, March 30, being declared a public holiday in accordance with their wishes. We do not want the Government to make the ridiculous mistake and excuse of merely calling that day "Liberation Day". The Spiritual Baptists would like the full name, The Spiritual Baptists Shouter Liberation Day, March 30. This is why we

could not understand the logic of the Government when they sought to advance Arrival Day as opposed to Indian Arrival Day.

5.20 p.m.

Similarly, we do not believe that the Government would be so inept to call the occasion that is being fought for by the Orisha movement any other name but what the community has requested, and that is Lord Shango Day—the deity Lord Shango—as a public holiday in Trinidad and Tobago. We, on this side, do not support Public Festival Day. We do not appreciate that at this time given all the arguments that we have advanced in support of the question of public holidays and particularly as it relates to the communities in question.

The issue here is identity of people and a sense of belonging. The struggle to strengthen the nation's social fabric is really and truly on. This is what the social integration process is all about. It seeks to ensure society reflects, and it responsive to, the needs of its various citizens. This is why many societies today are fragmenting and polarizing from within. The recent world summit for social development sought to address the key social issues confronting mankind, namely attacking poverty, building solidarity and creating jobs.

The issue of social integration was defined by the United Nations' Secretary General, Boutros-Boutros Ghali as, and I quote:

"One that is able to accommodate different and divergent individual and group aspirations within a flexible framework of shared, basic values and common interests."

I want to repeat this. When we talk about social integration, it means:

"One that is able to accommodate different and divergent individual and group aspirations within a flexible framework of shared, basic values and common interests."

We have to ask ourselves what is our vision for Trinidad and Tobago. Is it a nation striving to attain sustainable human development, which in turn will result in greater justice, greater equality, greater material well-being, equal opportunities and rights for all? We must have respect and tolerance for cultural diversity in our national community. We should, at all times, seek to strive for the construction of a society for all in which citizens feel that the State is responsive to their needs and aspirations, a society that promotes development consistent with social justice.

The issue in this report is whether granting public holidays to various interest groups would serve to integrate or disintegrate our social fabric, whether by using the epithet "Indian" before "Arrival Day" would catapult our society into racial warfare or racial antagonism, or whether by granting the Orisha faith Lord Shango Day, would promote disharmony in our nation. What about the spiritual Baptists' call for Liberation Day? Would the granting of such a day wreak havoc for our social fabric in Trinidad and Tobago? We beg to disagree with such a view. We believe that a public holiday would not bring about the kind of disunity, disintegration and disharmony that is being mouthed and spouted about the country at this time.

It is our view, if there is anything that is threatening our fragile stability in this country, it is not the naming of a public holiday, let us say, Indian Arrival Day, Lord Shango Day, or Spiritual Baptist Shouter Liberation Day. What is the real threat to our social fabric or our cultural mosaic is the phenomenon of jobless growth, growing poverty and mass hunger in our society. It is these social ills that will lead to the social disintegration of our nation more than the simplistic, illogical and intellectually incoherent arguments that have been advanced in this Parliament to justify a constipated approach to a very serious and important issue. That issue is one of identity in our community. Large sections of our population have been marginalized through exclusion and neglect, through homelessness and crime and many other social ills in our national community.

The current economic neo-liberal order that is rapidly being promoted in this country is leading large sections of our community towards marginalization, to increasing discrimination and to increasing social exclusion. We only have to look at our tens of thousands of unemployed youths, the close to three to four thousand street children, the senior citizens in our community, the widows, who continue to be marginalized in this society.

When we are talking about development, we must see the link between culture and development. Therefore, it is our view that it is this continued exclusion that poses the most serious danger to our nation. There is a difference between racial pride, racial identity and racism. Every people has a right to promote racial identity. Whether it is Africans, Indians, Syrians, Chinese, Jews, Caucasian, everybody has a right to their own cultural identity. Everybody is searching and seeking to have a stake in this land called Trinidad and Tobago. If we have a stake in this country we would put our shoulders to the wheels and work and no incentive given by any employer would be able to surpass that sense of

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commitment to country and to nation and to Republic, as when you give people that sense of identity.

There are 200,000 in the Baptist community who have been terrorized for 44 years, between 1917 and, 1951 and they are now seeking a public holiday in recognition of the cruelty that was meted out to them and their contribution to the economic, social and political development. We must never forget that Tubal Uriah Buzz Butler was a Shouter Baptist and he brought down the British Empire in Trinidad and Tobago and in the Caribbean as well.

5.30 p.m.

We must recognize that people are crying out for identify and we must never deny people their identity, their search for belonging and their stake that they wish in their own land.

Mr. President, exclusion and discrimination are not only economic driven, but can be based on racial, ethnic and gender considerations as well. If we are not careful, we may disintegrate under the full weight of our own prejudice in this country. We may bring about our own disintegration because of our narrow parochial approach to serious cultural issues in this society.

I want to bring to your attention that there were some 82 conflicts in the world since 1990, and 79 of those conflicts were within national borders. In other words, there are civil wars raging within national borders in the world today. Since 1990, we have had more than 82 conflicts.

I just bring to your attention, Sir, the patricidal warfare that is now gripping a country called Yugoslavia today. We see it on television every night. We just have to go to a place called Kaji Kistan, a Republic in the former Soviet Union; to Rwanda in Africa, where some four million people perish or were forced to flee their homes because of internal rivalry, tribal conflicts and all sorts of different developments that took place which resulted in the country being disintegrated and dismembered.

We do not want that for our country. This is why we on this side are saying that if the Government does not grant the Spiritual Baptist and the people of the Orisha Movement their rightful and justified public holiday, then a UNC Government would have to do it when it takes power in 1996. *[Desk thumping]* We make that very clear, Sir.

Mr. President, we on this side have a vision of a society for all, as the United Nations, which would seek to promote among other things, protection and respect for diversity and equal opportunities.

We, therefore, need to redefine our concept of development and set new priorities. We cannot view public holidays in a vacuum. We have to link public holidays to the whole process of development and transformation in our society. Therefore, we are arguing that the people who comprised that committee had a very myopic and narrow view of the whole question of public holidays in our Republic. They did not see the link, Sir.

We, as a nation, seem to be stuck in the past. We seem, as I said, to be afraid of challenging the *status quo*, but one can only have change when one challenges the *status quo*. If the slaves did not challenge the *status quo*, we would still have slavery today, but they challenged it and they overthrew it. That is why we are free men and women today. We have to challenge the institutions that are posing obstacles in the path of our social progress and social development. One needs to have the political will to do so. One must have, for instance, the masses of people sensitized, educated and mobilized to support that thrust as well.

Mr. President, we on this side are saying that the question of the *status quo* has to be addressed and challenged. It is the responsibility of the PNM to take action against social exclusion and not to actively promote it. This is what the PNM is doing.

Mr. President, I do not know if you can guide me on this, but we have a report—and I think the time has come when these reports must be signed when they are being submitted. I know, as a person who has had experience sitting on committees of this Parliament, that when there is a report coming to this Parliament there ought to be signatures on those reports. One sees names but no signatures to these reports. I am wondering what has happened.

In fact, we would like to know if this report has any *locus standi* before this Parliament or any basis. [Interruption]

We on this side are saying that it is the responsibility of the Government of this country—the PNM Government—to act against social exclusion and not to actively promote it, and not engage in the kind of immature and public relations exercise that the Prime Minister attempted to engage this country in recently with respect to the Chaguaramas experience.

Mr. President, we are saying that we must respect our diversity. We all have our identity and we must promote a framework for our actions in this country.

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Social cohesion should be founded on the basis of principles built on respect for human dignity, individual freedom and equality of rights and duties. These are very important elements that we have to promote if we have to sustain social cohesion and promote social integration in our community and country as a whole.

Therefore, we would urge the Government to support our amendment. We believe that it is the only logical and fair thing to do in the context of the cries and strives of our people for recognition and a sense of belonging. Therefore, we on this side strongly support the recommendations of the minority report.

Sen. Callender: It is not signed.

Sen. W. Mark: Well, you can sign both.

Mr. President, we urge the Government to support the report based on our own amendment and to urge the Senate to adopt the same report in the interest of our nation. We believe that if this takes place, we on this side would advance because the way forward lies in national unity and solidarity.

Our struggle is inextricably integrated, therefore, we must exercise greater care, understanding, tolerance and patience and appreciation for each other's values, morals and aspirations. We cannot progress if our people are disunited and divided. We know that there are forces in our country that are seeking to keep our country divided so that they can continue to exploit the economic system that promotes selfishness and greed in this society.

5.40 p.m.

And, therefore, we must draw inspiration and gather strength from some of our great liberators of the 20th century. I refer to liberators as Mahatma Ghandi, Nehru, Martin Luther King Jr, and the indefatigable Nelson Mandela, President of South Africa.

We also have to draw inspiration from our local heroes—This is why I mentioned people as Tubal Uriah "Buzz" Butler, our dearly beloved and past Elton Griffith, who fought along with Butler and Sinanan and people as Steven Maraj, to bring about a change for the people of this country. That is why we feel that these men and women, whether they be Christina King, Elma Francois—these are great people who have traversed this earth and have made their contributions and we must recognize their contributions. We must draw inspiration from their struggle as we move towards promoting a society that is based on justice and fair play; equality; solidarity; social cohesion and integration

and by that process, we can bring to an end the inhumanity of man to man in this country. As the late, great Dr. Martin Luther King Jr. said, and I quote this for the hon. Minister of Foreign Affairs:

"A man has no right to live until he has found something to die for "

The PNM has found nothing to die for that is why its Members continue to mislead the population of Trinidad and Tobago; that is why we continue to go from pillar to post, because there is no commitment, philosophy or vision for our country.

Therefore, we have to judge people on the basis not of their skin or the texture of their hair, or the origins of their race but based on their character, deeds, actions and on their principles. Those things should guide our lives and seek to improve other peoples lives as we strive towards creating a more just, equal and fair society for all our people in Trinidad and Tobago.

Mr. President, I urge the Government side to support our amendment which would adopt the Minority Report and give justice to the communities that have been struggling, striving and fighting for a sense of identity, belonging, a stake in this land. In the first instance, we are promoting the idea of public holidays both for the spiritual Baptist, Shouters, that is Liberation Day; and the Orisha movement, that is calling for Lord Shango Day and they will determine the actual day that they would like to celebrate that, some time in June.

With those few words, I hope that my colleagues will be able, in their wisdom, to actually recognize the importance of this question and at the appropriate time, give their whole-hearted support to this particular measure based on our amendment and let us build a better country, a better society and let us strive towards a greater nation.

Thank you very much, Mr. President.

Mr. President: Just before we proceed, let me get it clear. Your amendment is to insert the word "minority" before the word "report" in the first line?

Sen. W. Mark: Yes, Sir.

Seconded by Sen. S. Capildeo.

Question proposed.

Sen. Diana Mahabir-Wyatt: Mr. President, as mentioned by Sen. Robinson-Regis I was a Member of this committee. I was the sole independent Member of this committee which means that there was an independent presence.

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I must say that it was an extremely impressive committee. It was an extremely moving experience. I think it was the most hard-working committee I have ever worked on in my life. We had some 15 meetings and the level of the discussion was quite extraordinary.

The level of the contributions which got into religion, philosophy and theology, anthropology and history were quite impressive. In this respect I would particularly like to commend Sen. Barrack [*Desk thumping*] who had done an enormous amount of research and whose contributions were truly worth recording and listening to.

As Sen. Robinson-Regis said, we took our work extremely seriously and the level of the contributions was very, very high. I would also commend the contributions made by Sen. Robinson-Regis not only her participation and the articulateness of her presentation, but also for the kind of work she did in sub-committee to get the work through [*Desk thumping*] It was truly very well done.

I hope that some day in a suitably edited form, the contents of the work of that committee can be published, because I think it would be something which would be of great assistance to many people in Trinidad and Tobago in understanding the nation's culture, its origins, its development and how the various kinds of religion have impacted on each other to produce what we have today.

It was a very valuable experience and I am grateful I had the chance to go through it. I did not sign the report so let that take care of that particular question.

Somewhere between the 14th and 15th meetings—and I was not at the 15th meeting—the positions of various strong advocates of certain positions had, over the weekend, changed, and I was totally confused as to why this had happened. I just did not understand what had gone on, and as a result I did not sign the report. It did not mean any difference—the report still, rightfully, was going to go ahead to the Senate—but I am just making that point because this is, in fact, what happened. I still do not understand exactly why positions which had been strongly and deeply held to, and argued throughout 13 or 14 meetings all of a sudden vanished over night.

I would like to make one small comment in relation to the report as it has come out. I do not think that is either ethical or appropriate for me to stand here and talk about who took what position and why, because, that is a matter for the committee. I will not even go into what things I agreed with and disagreed with, because that was something which happened in the committee and I do not think it is appropriate or ethical for me to start doing that at this particular point.

There is one point which was made about the distinction between a public festival and a public holiday and I have been thinking about this a lot since,. The most notable public festival which we have in Trinidad and Tobago is, of course, carnival and it is hardly a festival which is honoured in the non-observance. It is probably the occasion which the whole country gets together and celebrates in total cohesion and unity. That is not a small recognition.

The job we have before us is whether to adopt or not to adopt the report of the committee with or without the amendments suggested by Sen. W. Mark, not to amend or disturb the contents of this committee and as a result of that, and in light of that, I will abstain if it comes to a vote.

Thank you, Mr. President.

ADJOURNMENT

The Minister of Social Services (Sen. The Hon. Russell Huggins): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, June 20, 1995 at 1.30 p.m.

If I may add, the Minister of Finance has indicated to me that he would like to have the Treasury (Amdt.) Bill debated as a matter of urgency. It is the Government's intention to proceed with that on Tuesday 20, and time permitting, to continue this debate.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.50 p.m.