

*Leave of Absence**Tuesday, March 16, 1999***SENATE***Tuesday, March 16, 1999*

The Senate met at 10.02 a.m.

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

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Finbar Gangar from sittings of the Senate from March 15—21, 1999; as well as leave of absence to Sen. The Hon. Brian Kuei Tung for the period March 12—16, 1999.

SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have been advised by His Excellency the President that he has appointed Mrs. Elaine Teemul as a temporary Senator with effect from March 15, 1999 and continuing during the absence from Trinidad and Tobago of Sen. The Hon. Finbar Gangar.

He has also advised that he has appointed Mr. Vincent Cabrera as a temporary Senator with effect from March 12, 1999 and continuing during the absence from Trinidad and Tobago of Sen. The Hon. Brian Kuei Tung.

In this connection, I have received the following communication from His Excellency, the President of the Republic of Trinidad and Tobago:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C.,
S.C., President and Commander-in-Chief of the
Republic of Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

To: MRS. ELAINE TEEMUL

WHEREAS Senator Finbar K. Gangar is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of

Senators' Appointment
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Trinidad and Tobago, do hereby appoint you, ELAINE TEEMUL, to be temporarily a member of the Senate, with effect from 16th March, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Finbar K. Gangar

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of March, 1999.

THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ARTHUR N. R. ROBINSON, T.C., O.C.C., S.C.,
President and Commander-in-Chief of the Republic of
Trinidad and Tobago.

\s\ Arthur N. R. Robinson
President.

To: MR. VINCENT CABRERA

WHEREAS Senator Brian Kuei Tung is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N. R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate, with effect from 16th March, 1999 and continuing during the absence from Trinidad and Tobago of the said Senator Brian Kuei Tung.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 15th day of March, 1999."

OATH OF ALLEGIANCE

Senators Elaine Teemul and Vincent Cabrera took and subscribed the Oath of Allegiance as required by law.

CONDOLENCES

Mr. Vice-President: Hon. Senators, it is with deep regret, that I have received the news of the passing of Dr. Anslem St. George, former Deputy Speaker of the House of Representatives, and a Member for San Fernando West. He served as Deputy Speaker for the period July 1987 to 1991.

Condolences

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We have also learnt of the passing of a former Member of the Legislative Council, Mr. Pope W. Mc Clean. He served on the Legislative Council in the electoral district of Pointe-a-Pierre for the period 1950 to 1956.

I extend our deepest sympathy to the relatives of Dr. St. George and Mr. Pope Mc Clean, and I have asked the Clerk to convey suitable messages of condolence to the respective families.

I would like to invite you to stand and observe one minute's silence as a mark of respect to these two gentlemen.

The Senate stood.

10.10 a.m.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1985. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1986. (*Hon. W. Mark*)
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1987. (*Hon. W. Mark*)
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1988. (*Hon. W. Mark*)
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts of the Queen's Hall Board for the year ended December 31, 1989. (*Hon. W. Mark*)

INVESTMENT PROMOTION BILL

Order for second reading read.

The Minister of Trade & Industry and Consumer Affairs and Minister of Tourism (Hon. Mervyn Assam): Mr. Vice-President, I beg to move,

That a Bill to provide for the promotion of investment in Trinidad and Tobago and for the repeal of the Foreign Investment Act, 1990, be now read a second time.

Investment Promotion Bill
[HON. M. ASSAM]

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Mr. Vice-President, it is a very deep honour for me to present this Bill to this Senate this morning, and I do so particularly in the circumstances that afflict a number of countries in the world. It is no secret that a number of countries in South East Asia, some in Latin America and particularly countries of the former Soviet Union, have been experiencing enormous financial difficulties. Indeed, many of the investors, particularly financial institutions, are becoming worried with respect to investing in these areas. Because Latin America and the Caribbean are lumped into one region, economies such as Trinidad and Tobago, are in reasonably good shape—although not altogether unaffected by the global financial situation—and has honoured all its obligations on time, whether it is sovereign debt or otherwise, both in terms of repayment of principal and interest. Indeed, even coming out of an IMF arrangement long before it was due because of how regimes are put together. Trinidad and Tobago is likely to have some difficulty with attracting investments. Notwithstanding the fact, also, that Trinidad and Tobago has had excellent rating from two of the international agencies, Moody's and Standard and Poors, which have given us BA1, very recently. So that the introduction of a Bill to promote investment is not only timely, but extremely important in the present circumstances.

The Investment Promotion Bill 1999 is designed to promote and encourage private investment from both domestic and foreign sources, by removing bureaucratic and other impediments and creating a degree of transparency so that the climate in Trinidad and Tobago will be propitious for anyone wishing to invest in our country.

The drafting of this Bill is an acknowledgment of the need for local manufacturers in Trinidad and Tobago to become internationally competitive, and to participate effectively in the ever-changing global economic environment.

As members would recall, prior to the early 1990s, Government's trade and industrial policies tended, in the main, to be protectionist and inward looking. During that period, local industries were established and were shielded from competition by an import negative list. This list, basically banned a large number of products which originated during the Second World War, but by the late 1980s it had outlived its usefulness due to radical changes in the global trading environment.

The early 1990s signalled the beginning of a general overhaul of Government's economic policies and strategies. Basically this country, prior to 1991, pursued an industrialization policy based on import substitution. The

institution of this policy was dependent on the establishment of a number of companies, mainly foreign, which were viewed as potential sources of technology and capital, and fore-runners of the local industrialization thrust. This programme was supplemented by a regime of fiscal incentives including tax holidays and duty concessions.

Based on this programme, manufacturers enjoyed lower start-up operational costs while operating in a fully insulated domestic market as a consequence of the enforcement of the negative list to which I alluded previously. This programme generated some measure of growth, but failed to realize the meaningful diversification or transformation of the country's production base, or the reduction of our dependence on the energy sector.

In acknowledgment of the fact that the developmental process had to be managed within the context of the growing thrust towards trade liberalization and the eventual formation of large mega trading blocs, Government, since 1991, has virtually removed the negative list; reformed the relevant institutional and administrative framework, and has actively encouraged the promotion of trade liberalization, and a greater degree of openness and transparency in economic, trade and industrial policy.

Based on the above factors, Government's present economic policies are designed to diversify the economy, foster private sector expansion and development, and promote export-led growth based on the guidelines in the following documents which were already laid in this honourable Senate—the Industrial Policy 1996—2000, the Trade Policy 1997—2001, the Medium Term Policy Framework 1997—1999 and the Micro, Small, and Medium Enterprise Policy, the Creation of a Class of Entrepreneurs 1997—2001

10.20 a.m.

These programmes, Mr. Vice-President, would be closely linked to initiatives to attract foreign investment, or indeed, local investment where capital is indeed an essential prerequisite for industrialization.

It is recognized that external capital can be used to supplement local sources which are generally deficient. As one knows, our rate of savings is fairly low and the economic equation is generally: savings equal investment. Because of this, it is absolutely necessary to attract foreign sources in order to sustain national economic development .

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Members of this honourable House should be informed that Government, by the divestment of a number of state companies and enterprises and similar measures, has effectively reversed its role as prime mover in the economy, and henceforth, will seek to facilitate private sector growth and development, using the cliché: 'the private sector becoming the engine of economic growth'.

One of the basic objectives for the national economy is that of enhancing international competitiveness, while generating sustainable growth and development in an increasingly liberalized global environment; and that the emphasis is on the removal of trade barriers. Indeed, it is one of the hallmarks of attracting investors into one's country, or even for local investors, the degree of competitiveness that one can achieve in the international arena. No one is going to invest in any company and is unable to compete outside, because markets are required for goods and services on a competitive basis.

Sen. Mahabir-Wyatt: Mr. Vice-President, I wonder if the hon. Minister, in keeping with his point about the Government policy about competition and competitiveness, could let this honourable House know whether it is the Government's policy in trying to promote the growth of private enterprise, not to go into business and competition with the private sector? Is this a policy of Government in part of its seeking to promote private sector development? I would just like to have clarification on this, Mr. Vice-President.

Hon. M. Assam: I am sure that if the distinguished Senator had given me a few minutes, I would have allayed her fears and assuage her woes with respect to any possibility of Government competing with the private sector. The very fact that Government has a policy of divestment, means that Government does not intend to compete with the private sector. The very fact that the Government has stated quite categorically and emphatically, that the private sector is the engine of growth, means that it would not be competing with the private sector. The very Bill that we are debating in this distinguished House this morning clearly states that the two agencies that would be responsible for promoting investment, which is the National Gas Company, in the energy sector; and the Tourism Industrial Development Company, in the non oil sector, would not be permitted to invest in any of the various areas in which the private sector is investing. So, there is almost a guarantee in this Bill against it, particularly from the standpoint of the two agencies, TIDCO and NGC.

In other words, Mr. Vice-President, the local manufacturing sector has been forced to compete in both the local and international fora for market share in this liberalized arena.

There have been previous attempts to undertake investment reform in Trinidad and Tobago. Investment policy was originally determined by the Aliens (Landholding) Act. I am sure many of you are fully aware of this Aliens (Landholding) Act, which gained notoriety a number of years ago when it was invoked in order to prevent Angostura Bitters from selling out, and also, one Mr. Jessel, I think, from buying out equity—I believe it was at the time—in Mr. Conrad O'Brien's company, Mc Eneaney/Alstons. So that, investment policy was originally determined by this Aliens (Landholding) Act. The Aliens (Landholding) Act was reflective of the protectionist nature of trade policy.

Mr. Vice-President, as you know, trade and investment are two sides of the same coin, almost as what Shakespeare described in *As You Like It*, like Juno Swans, coupled and inseparable. So that, one cannot discuss trade without investment and one cannot discuss investment without trade. So, the Aliens (Landholding) Act, Mr. Vice-President, was reflective of the protectionist nature about trade policy. At the time it was approved, since 1921, this piece of legislation subsisted for a very long time, well over half a century.

According to the provisions of the Act, the application for the licence was a prerequisite for the ownership by foreigners of land, shares or debentures, or any interest in a company in Trinidad and Tobago, even a lease, which is an interest in land, or an interest in a building.

Mr. Vice-President, the Aliens (Landholding) Act was repealed by the Foreign Investment Act of 1990. It was Act 16 of 1990, the Foreign Investment Act, and underlined the transformation from a fairly restrictive to a more liberalized, economic and trade policy. Foreign entrepreneurs were now described as foreign investors and not as aliens, because there is a certain kind of derogatory connotation to the word 'aliens'—people out of space coming into Trinidad and Tobago. You know Trinidadians and Tobagonians have a kind of xenophobia that they experienced from time to time when strangers descend upon them, fearing that they may take away what they have. So, foreign entrepreneurs were now described as foreign investors, and no longer as aliens.

One of the most significant changes incorporated into the Foreign Investment Act 1990, was the fact that foreign investors were permitted to incorporate private companies and own shares and land up to five acres; that is for their businesses, subject to the satisfaction of certain requirements, and one acre for their private residences. They did not have to acquire or obtain a licence for this acquisition. So, there was a great liberalization of the system, where hitherto they were denied

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the ability to purchase or lease or have an interest in land, shares, debentures and so forth.

The 1990 Act 16, the Foreign Investment Act, revolutionized all of this and brought Trinidad and Tobago, to some extent, into the modern investing world, and made us somewhat competitive—not fully competitive—but somewhat competitive and partially attractive to foreign investors who hitherto found that the investment process in Trinidad and Tobago created a lot of stress and trauma for them, and Trinidad and Tobago, as a consequence, lost out and investments went into other destinations, because the investment dollar is a scarce dollar, and it will go where the investment climate is more hospitable and propitious, and where incentives are more in line with a better rate of return for the investor, and where risks are either less, or can be managed—economic or politic risk, Mr. Vice-President.

I met a German investor only last week, and he was telling me that notwithstanding the fact that the price of gas in Trinidad and Tobago is more expensive than the price of gas in Venezuela by a considerable amount, his company was prepared to invest in Trinidad and Tobago, because of our investment climate; our laws, our economic and political stability, our transparency, the whole attitude towards foreigners and a certainty that when you invest your money in Trinidad and Tobago you can repatriate profits and dividends and you are able to conduct your business in a very transparent fashion, not to add, all the intellectual property rights laws we have enacted in this Parliament.

10.30 a.m.

Mr. Vice-President, subsequent to the introduction of the Foreign Investment Act, No. 16 of 1990, the domestic investment policy was further reviewed by the consultancy firm FIAS—that is the Foreign Investment Advisory Service of the World Bank—at the request of the Government of Trinidad and Tobago. As I mentioned earlier, competitiveness is critical whether it is in trade, goods or services or investment. If you are not competitive, you are not going to attract the scarce investment dollar, so although the Foreign Investment Act was an enormous improvement, it was not sufficiently competitive and we had to revisit it once more in order to ensure that we got more investment dollars. It was fairly easy to attract investment dollars in the energy sector, oil and gas, but not so easy to attract investment dollars in the non-oil sector and I would come to that later in my presentation.

Subsequent to the introduction, we got FIAS to advise us. The consultant's final report was presented in August, 1998 which provided a number of recommendations for removing constraints to foreign investments and attracting new investments. Some of the recommendations made by the Foreign Investment Advisory Service included the provision of clear, specific criteria of qualification.

Sen. Daly: Could the Minister tell me what is FIAS?

Hon. M. Assam: It is the Foreign Investment Advisory Service of the World Bank. It is a financial consultancy arm of the World Bank and they go to various countries upon invitation and do studies in order to determine the attractiveness of the investment climate and the constraints whether bureaucratic, political, economic, social, and otherwise and advise these governments and make recommendations on how to debureaucratize the country and make it safer, more hospitable for investment, both local and foreign. I hope I have been able to answer the distinguished Senator.

Recommendations included the provision of clear, specific, criteria for qualification. The broad overhaul of the incentive system, in essence, abandoning differential incentives for certain types of favoured investments and in favour of applying a lower rate of general taxes in business. In essence, what they were saying is you can bring in a regime of lower tax rates and remove all the different types of incentives as applied to energy, tourism, agriculture, manufacturing and so forth. Of course, such a recommendation is a very radical one because at that time the taxation levels—the marginal rate—I think was 40 per cent in the *Business Study of August 1998* and they wanted us to have that rate from 40 per cent to 20 per cent. One always has to look at Government's tax base in order to ensure it is a sustainable base for the running of the country in a satisfactory manner.

They said the Foreign Investment Act was outdated—in fact, it was only eight years old—and should be revised and replaced by a new Act and this is what we are discussing here today. Such an Investment Promotion Act should provide a clear statement of Government's policy on openness, foreign direct investment, as well as introduce the general safeguards to foreign investment in those countries which are vested in bilateral investment treaties which Trinidad and Tobago has negotiated.

Mr. Vice-President, this is something that Trinidad and Tobago has been doing for some time now in order to make our country more investor-friendly with

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negotiations on bilateral investment treaties called Investment Protection and Promotion Agreements with a number of developed countries, and we continue to do so.

Mr. Vice-President, the Government, in considering the FIAS report acknowledged the fact that the investment policy should become less regulatory and more performance-oriented and that is a very important and significant distinction because what has happened in the past is that an investor came into Trinidad and Tobago and on the basis of existing law, was given a certain amount of incentives and whether he performed or not, nobody was held to account.

Let me give you a very concrete example of what I mean. They may go to TIDCO, previously IDC, for example which is the agency that evaluates, assesses and recommends to the Minister for his final approval before it is sent to Cabinet. The would-be investor would say I would do “a”, “b”, “c” or “d” meaning he would generate 400 jobs, he would export “x” number of items, he would generate US \$200 million, bring in a certain kind of technology, deepen the manufacturing processes, all kinds of things. On the basis of this, you say, okay, the Fiscal Incentive Act or the Customs Ordinance, or whatever applies, because there was a lack of monitoring of the performance in many cases, did not live up to the expectation as a consequence of which, it is my respectful view, this country over time—and this is not blaming any government, because many governments were involved—lost much revenues as a result of giving concessions that were not based on performance.

Government therefore was requested to introduce a number of measures including the reduction of the level of corporation tax and we did it. We moved from 40 per cent to 35 per cent but, unfortunately, it could not have been moved below 35 per cent since then because of the eroding tax base of the Government as a consequence of what is taking place, as you know, with the energy sector in particular, oil prices, commodity prices and so forth.

The Bill reflects the Government's objective to promote investment through the provision of investment-friendly environment and to ensure that investment application procedures and criteria are clearly defined and transparent. Unlike the previous Act, which is the Foreign Investment Act, the Bill presents *inter alia* the elimination of the restrictions on share ownership of more than 30 per cent of local companies by foreign investors. This has been an irritant for some time where the foreign investor, particularly, was debarred from share ownership of

more than 30 per cent in the company and this Bill which we are seeking to pass into law, removes that restriction all together and, therefore, it makes the investment climate much friendlier, much more attractive and much more competitive and on par with some of the more advanced countries of the world that would enable us to attract investment, particularly in the non-oil sector which, as you know, is the sector which has been responsible for generating employment. Because the non-oil sector is not capital intensive as the energy sector, it is more labour intensive and when you have an unemployment rate of close to 14 per cent, you need to bring in all the investments in the non-oil sector to increase your employment levels in order to generate sustainable economic growth and development.

The other thing that is important in this Bill is the settlement of disputes which is extremely important for an investor because even though some countries have entered into investment protection and promotion agreements with us, they wanted to have enshrined in law some of these guarantees and mechanisms and the dispute mechanism was a critical element in the whole package of attracting investments to Trinidad and Tobago. So there is a dispute settlement mechanism in the new Bill which is before this House.

The other consideration is the elimination of the requirements that consideration for land acquired by foreign investors, or even by a citizen of Caricom should be paid in an international trading currency. Obviously, this was a disincentive particularly to Caricom countries where they were forced to take hard currency and purchase the land or shares in Trinidad and Tobago. Today, this Bill provides that you can pay for shares, land, or anything acquired in the currency of Trinidad and Tobago and, therefore, it makes investment much more attractive, particularly for the Caricom investors, but also for the foreign investors who can access the financial spectra in Trinidad and Tobago itself, giving our banks more business as a consequence. Rather than borrowing from foreign banks, or banks in other countries, they can access the financial system here and bring more business to our own financial institutions. As you know, Trinidad and Tobago possesses a very competent financial system in the form of the Central Bank; we have very good commercial banks, we have many investment and merchant banks and they are doing a very good job in trying to develop the capital market of the country.

The other area was the identification of the range of incentives which are available to foreign investors in Trinidad and Tobago. What has happened, is that many foreign investors come here and there are so many areas at which they have

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to look that sometimes they get confused or it turns them off, or they may have to go to a distinguished lawyer like Sen. Daly, Sen. Furness-Smith, or even the distinguished Vice-President and perhaps pay a large number of guineas in order to find out what should be made easily available to them either on a web site on the Internet, or in booklet or through a pre-investment qualification via TIDCO, or very well expressed in Acts of Parliament. So this was another disincentive, another barrier which was put in the way of attracting investors into Trinidad and Tobago [*Interruption*] The distinguished Sen. Cowie who I am sure must be competing for the legal dollar would be the other distinguished attorney. Again, competition is the name of the game.

Hon. Senator: You are discriminating against the women.

Hon. M. Assam: I have no difficulty with Sen. Mohammed doing the same thing. She deserves no less, of course, because she cannot live on the meagre parliamentary salary which she is getting. Notwithstanding the fact that her party does not want to approve the Salaries Review Commission's report, but that is another matter which I am sure she may live to regret one day as she comes to the end of her parliamentary life.

Mr. Vice-President, there are more definitions in the Bill than the Foreign Investment Act. In other words, the terms were not explicit in reading the Foreign Investment Act and one had to go to lawyers; laymen perhaps could not interpret these clauses as clearly as they should have been interpreted by the layman. So this Bill is more explanatory and it is a more effective piece of legislation.

10.45 a.m.

Mr. Vice-President, for example, the following terms and phrases which were not defined in the Foreign Investment Act, and in some cases not included at all, have now been specifically defined. For example, the meaning of to acquire land, the meaning of a company, the meaning of gas based industries, the meaning of investment, investor, the National Gas Company, its role and function in all of this. TIDCO, the Tourism Industrial Development Company, its role and function in all of this.

Mr. Vice-President, also, the Bill includes a new provision that would protect the investor's property from compulsory acquisition by the state, by providing prompt payment of compensation at market value in a freely convertible currency. So that a foreign investor has no reason to fear to come and invest in Trinidad and Tobago, with such a guarantee enshrined in law, whereby if the Government

decided—and I hope that never happens, but if it should happen Mr. Vice-President—that Government had to acquire compulsorily some business—because you know sometimes you have to build a highway, or you have to probably build a hospital—you may have to acquire things for what they call public purposes.

In such a case, if that happens, Mr. Vice-President, your property will be assessed at market value and you will be promptly paid in a freely convertible currency, so that if the investment is from Germany, you will get it in deutsche marks, if it is in the United States, you will get it in \$US, if it is from the United Kingdom you get it in pounds, etcetera. But nowadays, it might be easier because you may only probably have to do it in the Euro, because I understand 13 countries in Europe are now moving to one currency and, I hope one day Mr. Vice-President before I die, I may not be in office, but before I die, I hope that the Caribbean, as it moves to a single market and economy, will consider very seriously moving to convertibility and conversion and to a single currency, under one single monetary authority. This is my hope and this is my prayer.

In addition to the above mentioned factors, the Bill highlights the role of TIDCO as the principal investment agency. TIDCO will receive and evaluate applications for licences and approvals required prior to the undertaking of the actual investment and provide all relevant information to the potential investor. The general philosophy Mr. Vice-President, is that TIDCO should operate as a pre-investment window which is closely akin to what is normally or popularly called 'a one stop shop', thereby facilitating the process, while eliminating a number of bureaucratic constraints in the application procedure.

That has been one of the problems in our country, the question of bureaucracy, Mr. Vice-President, which has hindered efficiency, competitiveness, the evaluation processing and final approval of all kinds of matters, including investment, and we have suffered as a result, because people have come in here and because of all these constraints, have left our shores and gone elsewhere. I understand for example, that certain CARICOM countries have been the beneficiary of investors or investments because of the slowness and tardiness which hitherto characterized the approval process for investment in Trinidad and Tobago.

Mr. Vice-President, equally, the National Gas Company will be performing the same functions for investors but only in the oil and gas based industries and, obviously, TIDCO would be authorized to perform in every other area except gas

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and oil in what we call the non-oil sector which is the broad sector including, manufacturing, agriculture, agro-processing services, telecommunication and informatics and so forth.

Accordingly, TIDCO's Investment Facilitation Department, has defined two major goals to be achieved in 1999:

- (i) To work towards reducing the turnaround time for investment approvals to not more than 30 days.

Now, it seems to me that 30 days is a reasonable turnaround time for having an entire investment proposal analyzed, assessed, evaluated and recommended for ministerial approval and so forth. Therefore, we hope that this will improve the investment climate in our country.

- (ii) They also have a very ambitious goal to attract and facilitate new investment projects at a sustainable rate of \$500m a year.

Now, Mr. Vice-President, this is not really pie in the sky because, I have a schedule before me of projects that are in the pipeline and all in the non-oil sector, and although I will not call the names of the prospective investors, it seems to me that we are looking at some reasonably good investments in the non-oil sector that should come on stream quite shortly.

Hon. Members: Trump?

Hon. M. Assam: Trump and follow suit. We have one here for \$6.3m, and it is in the agri-business, one \$15m in pharmaceuticals, \$28m in gas tanks, \$25m in terms of a manufacturing facility, and we also have people getting involved in the private sector in education, Mr. Vice-President, which obviously dovetails into the Minister of Education and the Prime Minister's plan for removing the common entrance by the year 2000 and eventually de-shifting the schools altogether. Then we have another \$4m in terms of a micro-brewery and wine processing company. In terms of the tourism sector, we are looking at a number of projects that will be on stream very shortly, for example, we are talking about Sanctuary, that is Tobago, we are talking about Plantation Villas, we are talking about Stone Haven Villas, we are talking about Blue Haven, an expansion to Blue Waters Inn, we are talking about the new Hilton Hotel which will be coming on stream in September—October, so in terms of the tourism sector, it looks very encouraging, and hopefully the Four Seasons Hotel should also be somewhat on stream.

I know there has been quite a furore in this country, Mr. Vice-President, about InnCOGEN and the associated activities, because it is said that we are giving a

contract merely to generate electricity and really there is no co-generation involved in it, and I want to advise that very shortly we will see in this country that co-generation principle being applied in terms of the sister company InnerCob, where they are going to be putting down both a glass plant, an ethanol plant and a paper plant and that is going to be 400 jobs in the vicinity of US \$90m. But, I am reasonably sure, Mr. Vice President, that when it happens people will not give credit where credit is due and like the great poet: 'I hope those who came to scoff will remain to pray.'

We also have some other very interesting investments in chemicals \$3.8m, and also the question of garments which is another \$16m. But in Trinidad and Tobago in terms of the tourism sector, because all of those I spoke about earlier were in Tobago, the Chaguaramas Hotel and Convention Centre is going to be providing a little over 70 rooms within three weeks, although, there is a lot of bad press and misinformation in this country about what is taking place.

10.55 a.m.

One can hate a Government but still love one's country. Hate me! I have no difficulty with that. They hated Christ, they killed Mahatma Ghandi and Martin Luther King. They have done all kinds of atrocities to people. One can hate me and the UNC, but one could love one's country and should not go about saying bad things about one's country, particularly when it is based on misinformation.

So, Chaguaramas will provide 72 rooms very shortly; Crews Inn will provide 42 rooms; and the Scarlet Ibis Hotel will provide another 60 rooms. That is the one being refurbished by the Centre of Excellence. Hopefully, we will also be seeing another business and convention hotel in Port of Spain or very close to the East/West Corridor soon. We also have another interesting investment where we are going to be manufacturing cars here. It is a special type of car called the Khaleej car, and it is an investment of \$1.5 million; a joint venture between a United Kingdom investor and a Trinidadian investor.

I can go through all of this, but it would not be necessary because the list is quite impressive.

Sen. Prof. Spence: Mr. Vice-President, as one who loves my country and does not hate the UNC or the Minister, and one who is very positive, could I ask the hon. Minister if there are any investments in the agricultural sector? I am very positive about the agricultural sector, and I hope that this Government is as well.

Hon. M. Assam: I could never associate the distinguished Sen. Prof. Spence with hate or misinformation. He is too noble a man for me to do that.

There are some investments in food. There is, for example, the manufacture of pasta. *[Laughter]* We also have the processing of peanuts; the manufacture of juices; the manufacture of nature and health foods; the processing of a whole range of condiments, and seasoning and spices—that is a new enterprise—the processing of parboiled rice; and the manufacture of processed peanuts, cashew nuts and other items. So, there is a small start somewhere.

Sen. Prof. Spence: Unfortunately, all of those would be based on imported raw materials. What I was really interested in is whether we would do any production in the agricultural sector.

Hon. M. Assam: I am sure the Minister of Agriculture, Land and Marine Resources would be able to advise this honourable Senate and Sen. Prof. Spence of what he has in the pipeline for the increase in food production in this country. He has a plan and I am sure he will be unveiling this plan for increased food production in this country very shortly.

Additionally, as we know, the Free Zones Company is another company that is involved in attracting investment, creating employment and generating foreign exchange. The Free Zones Company has attracted US \$400 million in investments in the last two years and is expected to attract another US \$300 million in the next two years. As a result of this, it has created close to 3,000 direct jobs in these various investments of US \$400 million in the last two to three years.

Mr. Vice-President, as I was saying, with respect to the various clauses included in this Bill which are superior to those existing in the Foreign Investment Act; in addition to all of these things I have mentioned with respect to the turn-around time of 30 days and the guarantees against expropriation, the process has been supplemented by the negotiation of bilateral investment treaties, which I alluded to earlier, with a number of countries including Canada, France, the United Kingdom and the United States of America. Additionally, officials of Trinidad and Tobago are currently engaged in undertaking similar discussions with Argentina, Cuba, the Federal Republic of Germany, Italy, Korea, the Kingdom of the Netherlands, Sweden, Switzerland and Venezuela. So, the Government has embarked on an aggressive programme for negotiating bilateral investment treaties to ensure that Trinidad and Tobago gets its share of the investment pool of funds which exist in the world today.

As I said earlier, there is a tendency to have investors go into either the developed countries—for example, in the European Union today, many of them are investing in the newly democratized Eastern European countries. They have done much investment in Ireland, the United States, Canada, the Far East—China is one of the countries that gets a large share of the total investment pool in the world. So, we have to do the same and not only bring legislation to ensure that kind of thing, but also to have treaties with these countries.

The principal tenet of these agreements is that of affording the following treatment to the investment of both parties: national treatment—which is very important—fair and equitable treatment; protection from expropriation and nationalization; unrestricted repatriation of profits; and arbitration procedures in the event of disputes.

Other important elements of an investment promotion effort are the free zones, and I have just made mention of what is taking place in the free zones area in terms of investments that have already taken place, investments that are expected to take place, the kind of jobs that have been generated, and the strengthening of intellectual property legislation, which is critical, particularly in certain industries like the informatics and telecommunications industry. The proposed introduction of a competition policy framework which I intend to bring to this Parliament soon and the provision of enhanced incentives, particularly for the small business sector, which is one of the main planks of our industrial policy and which is contained in a separate document in terms of creating entrepreneurs in the future—micro, small and medium enterprises.

The free zones programme was developed with the objective of attracting export-oriented firms which would not otherwise have located operations in Trinidad and Tobago. The programme is intended to generate a number of benefits and, as I said, direct and indirect job creation; generation of foreign exchange; payment of payroll taxes; purchase of local goods and services; access to export markets; transfer of skills and technology; increased exports; and increased shipping volumes. So, in many areas, the economy will benefit.

The strengthening of the Intellectual Property Legislation will assure investors that their production processes and other trade secrets will be protected from unauthorized duplication, so ensuring that they obtain maximum revenue from their inventions and their products. Similarly, the introduction of competitive

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policy legislative framework will serve to reduce abuses of positions of dominant power in the economy by cartels and monopolies, thereby ensuring that all firms operate in an environment characterized by free and fair competition.

This promotion is applied to both local and foreign investments, but I think it is useful to add at this point that Government has also introduced a number of incentives to encourage nationals to engage in business activities and, in particular, the small business sector. Some of these incentives are the loan guarantee level to the Small Business Development Company from a maximum of \$150,000 to \$250,000. The asset value threshold for qualification as a small business at the SBDC has been increased from \$500,000 to \$1.5 million, and Government has increased its grant to the SBDC to \$8 million. Mr. Vice-President, we are looking at a very holistic approach to creating a climate for inward investment or for local investment in Trinidad and Tobago, and we have used every possible area to ensure that all of them are well served in terms of that policy initiative.

The Bill, in addition to what I have said, has a number of schedules which serve to inform the would-be investor of what the various Acts on the books of this country offer them and, therefore, they can be clearly identified without any confusion or without difficulty.

In closing, I wish to reiterate the point that the Investment Promotion Bill—

Sen. Daly: Mr. Vice-President, there are a number of clauses the Minister has carefully avoided which I will deal with in due course, but could he explain the practical effect of clause 4 which excludes public utilities, banks, insurance companies and petroleum companies from the operation of the Act? What is the practical effect of that clause?

Hon. M. Assam: I do not know if petroleum companies are excluded. The utilities are excluded because they come under the Regulated Industries Commission. Banks and insurance companies come under different Acts—the Insurance Act for insurance companies and the Financial Institution Act for banks.

So, if one wants to apply for a licence to operate a financial institution in this country, there is a mechanism for so doing. One has to apply to the Minister of Finance and the Governor of the Central Bank and one must have a certain amount of capital—I think it is TT \$20 million—one must tell them who are one's managers and directors and their qualifications and experience in order for them to make a proper assessment that one can be given a licence, either to operate an

insurance company or a financial institution; whether it is a bank or a non-bank. That is why it is excluded from this Bill, because there are other Acts governing the operation and the licensing of insurance companies and of financial institutions. In terms of the public utilities, that is also done by the Regulated Industries Commission (RIC), which was passed in this House some time ago.

Sen. Ramnath: Hon. Minister, if Petrotrin were to be interested in operating a gas station in this country, would you indicate how this can be done?

Hon. M. Assam: As far as I am concerned, the Government has a policy of demonopolization and, therefore, they will open up the market to any institution that is capable of operating retail gas stations in the country, of which Petrotrin, in my view, should not or cannot be excluded, because it is a policy of demonopolization. Once they meet the criteria in terms of the open bidding process, Petrotrin will obviously be considered.

11.10 a.m.

Sen. Mahabir-Wyatt: Mr. Vice-President, through you, would this not be an example of Government going into business and competition with the private sector? Because if Government, via Petrotrin or NP decides to open gas stations of its own, would this not be contrary to the policy that you enunciated earlier?

Hon. M. Assam: There is no conflict there in my opinion because, in the first instance, Government is, and has been, attempting to secure a partner for Petrotrin so that the divestment of Petrotrin is something that has been on the cards for some time, as you are fully aware. If Petrotrin is privatized and has a partner, they will be competing with other members of the private sector, except that Government will have some shareholding in it. So, I see no conflict, in fact, I see competition which is what we are trying to foster in the country—competition.

Sen. Ramnath: Hon. Minister, this is quite contrary to statements made by your colleague, Sen. Gangar, and the Chairman of Petrotrin's Board. I also wish to remind you that, presently NP has *[Interruption]*

Sen. Mohammed: Come over to this side Mr. Ramnath.

Sen. Ramnath: —I am not performing the role of an Independent Senator, I am just trying to assist. NP has a virtual monopoly which prevents any other business venture until the demonopolization legislation comes into place. At the present time, Petrotrin is precluded from putting its logo on gas stations. My information is that we would love to do that. So, I am just asking whether this will

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facilitate one of the most viable, competent and efficient companies in the Caribbean from entering the retail business.

Hon. M. Assam: I do not understand what is his point, because once demonopolization legislation comes into being, all companies that are interested in getting involved in the retail gas station business could now be part of the whole bidding process. If Petrotrin wishes to be part of that bidding process, once the legislation has been made law—I do not understand in what way you are saying that I am contradicting the Minister of Energy and Energy Industries or the Chairman of Petrotrin. There is no contradiction. The point is, the Government is proceeding on a certain course. Stage one is to upgrade certain NP stations. Stage two is to bring the question of the demonopolization legislation that will now create competition in the country. At that stage, whether it is AMOCO, EXXON, Chevron, Petrotrin or whoever, can enter into the bidding process at that point in time.

As I said to Sen. Mahabir-Wyatt, Government is, and has been, looking for a partner for Petrotrin for a long time. So that Government is interested in privatizing Petrotrin. We are not interested in holding on to 100 per cent of Petrotrin. Again, if Petrotrin is privatized, it will be part of the private sector and, therefore, it will have an opportunity to compete with the rest of the private sector in the retail gas station business. I do not see any contradiction.

Sen. Ramnath: Hon. Minister, I am in full support of your proposal. I am just seeking some clarification. As a senior manager in that organization, there are mixed signals. For the first time, I am hearing that the Government is taking a decision to seek a partner. That information has not been made available before by the Government, the Minister, the Chairman of the Board or the Executive Management. If I were to take your word, then I am delighted to hear that we are moving in a forward direction. That is all that I wish to say. I am not trying to contradict what you are saying.

Mr. Vice-President: Hon. Minister, your speaking time has expired. I will allow you to wrap up in two minutes. We want to avoid too much cross-talk and questions. We will leave that for other aspects of the debate. So, I invite you to proceed.

Hon. M. Assam: Mr. Vice-President, I was about to wind up when the questions came, all over, for which I am very grateful.

In closing, I wish to reiterate the point that the Investment Promotion Bill will serve to augment and improve the current investment policy framework. It should

not be viewed as a stand alone document, but as an integral part of a compendium of measures which are designed to ensure that Trinidad and Tobago attract both local and foreign investment, thereby expanding its industrial base and, more importantly, enhancing its international competitiveness and making Trinidad and Tobago one of the most attractive investment destinations in the world. Mr. Vice-President, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Danny Montano: When I first received the Bill, I looked forward to it with some anticipation, knowing clearly that the revision and reform of the existing legislation was in fact, desirable. I know it had been talked about for some time and it has been on the cards for a number of years. However, on reading the Bill, I was disappointed because, it is quite clear that this Bill has really struck no new ground. It has created very little that is new. There are few opportunities that have been created. In fact, really, no opportunities have been created here; some have been removed. It was with great disappointment and yet with some anticipation that I listened to the Minister, hoping, perhaps to hear some vision on the part of the Government, that might really take us and take this country into the 21st Century. Unfortunately, the Bill falls far short of what, I think, this country really requires.

In the first instance, in Part I, clause 3 of the Bill, it is quite clear that Caricom investors have now been excluded. Caricom investors are now going to fall as foreign investors. With the recent statements that have been made in this Chamber about the furtherance of Caricom relations and trying to encourage investment opportunities between the Caricom countries, one would have thought that, if anything, the relationship with our sister islands, or our cousin islands, perhaps, would have been strengthened. In fact, they have been removed. The status that some of them enjoyed previously, has been removed. They now qualify only as bona fide foreign investors and must go through the routine of applications as we see here.

One of the things that I have spoken about before, specifically in terms of our Caricom neighbours, was not only the free movement of capital, but the free movement of intellectual capital, that is to say, I had lamented on more than one occasion that a foreign investor, from one of our neighbouring islands, who invests in this country does not automatically have any right to come and live or work here, unless there is a bilateral arrangement between this island and our neighbour. That is a great disappointment. As we face the 21st Century, we in this

country have not taken the opportunity to invite our neighbours to come here and invest their capital and to be able to come here freely, but must still be subject to the vagaries—and you know how that can work with this administration—of the granting and time limits of work permits.

11.20 a.m.

Mr. Vice-President, it does not seem to me that investors are going to invest tremendous sums of money if they cannot come here to manage the investments for themselves and the question of work permits is extremely important. The Minister, in his contribution, referred to the bilateral arrangements which existed prior to his tenure and the ones that his administration have initiated. But what about everybody else and the specific reference to our CARICOM neighbours?

We are trying in the latter part of the 20th Century and as we go into the 21st Century to encourage trade with our neighbours, yet they bring an Investment Promotion Bill that does nothing to encourage that kind of freedom of movement within the CARICOM. I am ashamed to be part of this legislation; I am ashamed that we have not done more to create the opportunities that need to be created, because the type of investments we are likely to receive here from our CARICOM neighbours are not likely to be the type of investments that are necessarily capital-intensive but, most certainly, the type of investments that are going to be labour-intensive, and that is the kind of investment that this country dearly needs. Yet, it has been completely ignored.

Mr. Vice-President, there was a little discussion a bit earlier between the good Senator on the Back Bench and the Minister, dealing with Petrotrin and, obviously, the conflict of policy, or the conflict of understanding the policy [*Desk thumping*] and that conflict and lack of understanding is clearly reflected throughout this piece of legislation. Clearly, there is no comprehensive vision.

The Minister has included in this legislation clauses 6 to 8 dealing with Tidco and the National Gas Company, but has not really explained to us—and this Bill certainly has not explained to us—of what benefit and value Tidco and the National Gas Company are intended to be. Nowhere did I hear him use the word “facilitate” and, certainly, it is very apparent from the legislation that neither Tidco nor the National Gas Company is actually going to grant any approvals themselves.

So, in the use of his term when he referred to a one-stop shop, all that has happened is that we have created another stop in the application process, because

in clause 7(2), it is very clear that the investor is still required to make all the other applications he had to make in the first instance, and all that Tidco is going to do, is that it is going to receive and evaluate. That is all it will be doing—receiving, advising, evaluating and providing information; not approving anything.

It is less than clear as to whether or not Tidco and the National Gas Company are actually going to facilitate in the granting of the licences and approvals which are necessary from the different agencies and institutions. It does not say that and the Minister did not say that; therefore, I have to wonder what on earth is the point of these clauses? What are they really doing here, except creating another bureaucratic step? It does not seem to do anything at all.

Mr. Vice-President, when I listened to the Minister, an expression that he used was, “the attraction of foreign investment”. I began to hope that his administration had a plan and a vision of what should really be taking place in terms of the attraction of foreign investment. But it seems that the vision is somewhat myopic and it is not clearly understood as to what the attraction of foreign investment is really about and what it should really do for this country.

The Minister spoke specifically about the needs of foreign investors and he mentioned a number of things, including the Foreign Investment Advisory Service (FIAS) of the World Bank which they were looking at purely from an external point of view, in terms of what the requirements of foreign investors would be, coming into the country here. But, what about the requirements of Trinidad and Tobago? I heard nothing about that. This Government has missed a fabulous opportunity to really put something down that will take this country well into the 21st Century.

My fellow Senators here would know there are several islands in the Caribbean, the nearest to us is Barbados which has a tremendous amount of legislation dealing with *quasi* foreign investment, foreign banking, foreign insurance companies and so forth. They have been, what I would say, trading on the margins, that is, looking for the marginal dollar and the marginal increase in revenues. It is very clear that this Government has missed that opportunity. It does not seem to understand that when we face a situation, as we are facing now in the world, we must trade for the margins; we must look for the marginal increases in revenues and we must begin to attract to our shores the type of investment that is really going to build this country.

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Why can we not facilitate the companies that have a serious vested interest in the development of the natural resources here which are very substantial? Why is it that we cannot provide the facilities for them to come here, the incentives for them to come here and set up their head offices? Why are their head offices located in New York, London, Houston or wherever? Why not right here?

Furthermore, in terms of the investment coming to these shores, this piece of legislation provides for guarantees, which was one of the things that the FIAS had recommended and the Government has actually done. The Minister spoke about safeguards and I am translating that to mean that the safeguards being referred to are the guarantees referred to in Part IV, clause 19, that is where the foreign investor can repatriate his capital, profits and so forth, in foreign currency. But the opportunity that has been missed here is this: the opportunity for the attraction of foreign capital to be invested here and to remain here. [*Desk thumping*] What we are doing here is this: we are providing foreign investors with an ironclad guarantee that they can take their capital and profits out of the country.

In the first instance, I do not think that is necessary. If I were to go to invest in the United States, I know that the United States government was not going to give me a guarantee so I can take my money out. The fact of the matter is the guarantee only exists because of the free market forces, that is, that you line up at the banks, as the case might be, and you buy your currency as and when it is available at the price that the market is paying for it. So, why is it that we have to virtually give foreign investors a preferential guarantee to the access of foreign exchange? That is one side of the equation.

The other side of the equation I mentioned last week when I was speaking, when I referred to the sinking fund that Phoenix Park Gas Processors has, where it invests its profits in the sinking fund in order to fund its long-term bonds. For the benefit of the Minister, I will repeat it. I explained how those funds, I am well advised, are invested in United States dollars and United States government treasury bills, and I was lamenting the fact that they were not invested in Trinidad and Tobago treasury bills.

The Minister then went on to talk about us not having the savings rate in this country to finance these projects. If these foreign investors were asked—I am not necessarily suggesting that any demand be made—if they were encouraged to invest their profits back into our banking system, our banking system would have the foreign exchange available to finance future plans. This has been missed in the

legislation. It has just flown over the heads of everybody on that side. Where are we going if people do not understand that?

I am not saying that these foreign investors must be forced to invest their profits here. That would be wrong and I think that would be very short-sighted. Something could be done. I mean, we are talking about incentives and there is a list of incentives here in terms of profits and so forth. One of those incentives could be reinvestment, re-deployment, re-application of their capital surpluses and profits.

Mr. Vice-President, we are on the cusp of the 21st Century. We are standing right on the cusp of the 21st Century and what is required is vision, long-term vision, my friend; the kind of vision that is really going to make a difference here. You stand in line like everybody else in the country, you will only go as far as the line. You have to think something else; you have to think of something new. What is required in this country today is new thinking, a new type of dynamic thinking. We cannot just follow the crowd for the rest of eternity. We must have new thinking, Sir.

The Minister went on to lament the fact that prior pieces of legislation and prior instances of foreign investment failed in one criterion in the sense that there was no accountability. That is what he said. He also said what had happened was that the investors who had come here before had not been measured subsequently in terms of whether their targets and their promises had been kept in terms of the rate of labour employment and all that sort of thing, to see whether or not, in fact, the justification for the maintenance of the concessions, tax and otherwise, was really justified.

But, where is the accountability that he spoke about in this legislation? I am not seeing it anywhere. I think it is an excellent point and the Minister himself made it but, for some reason, it does not appear in this piece of legislation. Why not? Did it just occur to him as he was standing, or did it occur to him some time previously?

In terms of the granting of licences, concessions and so forth, we heard the Minister of Planning and Development speak last week saying that in the future, total tax free concessions would no longer be granted. If that is the policy of this administration, when was that policy arrived at and what is the policy now? Because, these concessions do make a provision for total relief from corporation and other taxes.

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So, if the Minister of Planning and Development said that it is now the policy of the Government not to do that anymore, I would like to hear what this Minister is going to say. There seems to be some conflict and I would certainly like to hear his explanation in terms of the granting of the concession to InnCogen, where it has been granted an eight-year tax holiday. I would also like to hear what the Minister is likely to say—

11.35 a.m.

Sen. Ramnath: Would you give way? Would you indicate what tax holiday was given to NUCOR?

Sen. D. Montano: Mr. Vice-President, I do not have that information. We are talking about Government's policy here. This Government is on record as saying that they are not going to grant total tax concessions. If that is the policy, how do they then justify InnCogen? If it is that their policy is, "Yes, when you come here, we will give you a total tax holiday", well, fine, we can debate the policy. But it seems as if the policy and the practice do not agree. That is the issue, my friend. [*Desk thumping*]

Mr. Vice-President, the Minister went on to suggest our private sector is going to be the engine of growth. I love the jargon that the consultants come up with, you know—engine of growth—and it creates in the mind of the listener a giant machine steam-rolling a road, or something of the sort—an engine of growth. But how is the private sector going to be the engine of growth? What exactly is this government going to offer, when the Minister of Finance is on record in two budget speeches as saying that the export allowance is going to be removed? What is he saying? In one breath, he is saying that he would like to remove or to reduce the rates of income tax, and on the other hand he is saying, "Well, we cannot do that because we do not want to erode the tax space", and at the same point—

Mr. Assam: On a point of clarification, Mr. Vice-President, the Minister of Finance did say that the export allowance is going to be removed; but he is saying so because he wishes to be consistent with WTO policy. The World Trade Organization policy requires you to remove all forms of subsidy. Therefore the export allowance is construed as a subsidy, and it must be removed by the year 2002.

Sen. D. Montano: I thank the Minister for that. I am very aware of that, because the Minister of Finance gave that explanation before, and I am aware of it, very aware of it. I understand exactly what that is. The world trade agreements also call for a balancing and an equalization of duties and entry tariffs, but the

Minister of Finance does as he will, and raises and lowers the taxation on the importation of motor cars, without any world agreements. When he wants to do it, he can do it.

Mr. Assam: Would the Senator give way?

Sen. D. Montano: No; I am not going to give way.

Mr. Assam: You are misleading people.

Sen. D. Montano: I am not misleading anybody. Mr. Vice-President, what cannot be achieved one way, can be achieved another way. Without imagination, without flexibility; and if you follow the crowd—as I said earlier—you can go only as far as the crowd. But while they say that they are under an obligation to remove the export allowances, there are no statements of comfort to the exporters, as to what else they could hope for, what else they might achieve; not even to say, “Never mind, we are going to reduce the rates of corporate taxation to a particular level”, or whatever the case might be. You know, there is more than one way of skinning a cat. But, Mr. Vice-President, if they are going to follow the crowd, they will only go as far as the crowd.

I said earlier—and I make no apology for it—new, dynamic thinking has to take place in this country. [*Desk thumping*] So if he wants to debate the Export Allowance—I do not care what he calls it, but I will stand up here and tell you that our manufacturing sector, insofar as export is concerned has got to be encouraged. I do not care who stands up and says, “Oh, it is against”, we will find a way, and a way must be found, to give them the kinds of incentives that they deserve. [*Desk thumping*]

What is this? What do all these form—these incentives? What is all this? If this is not an export allowance to most of the plants that are coming here, what else is it? Somehow we can do this for them, but we cannot do it for our own? That is nonsense, Mr. Vice-President, and I refuse to accept that. [*Desk thumping*] And if the Minister does not understand what I am talking about, then I am sorry for him.

Sen. Mark: Just on a point of clarification, Mr. Vice-President—I do not know if the hon. Senator would give way—I would like to ask Sen. Danny Montano if he is aware of an investment sector loan which was signed by the PNM in 1993, outlining all these conditions, and so on, that we are now seeking to effect. Are you aware of it?

Sen. D. Montano: Mr. Vice-President, this is the kind of thinking that we have to put up with, unfortunately; but not for too much longer. Things will change.

Mr. Vice-President, I am in a position now to be at the end of my contribution, and I would just like to speak about the fiscal incentives that the Minister felt was one of the things that this Bill was accomplishing. The fact that they have all been bundled in one place, and he is patting himself on the back for saying “Now, it is all in one place”—as if it was not in one place before—any of the professional accounting firms could have given you the same thing, and they would have also included the employment allowances that were granted last year and the year before; and the training allowances which this document excludes. Those were so called incentives, granted by this administration, and they have forgotten to include them here. So obviously they do not think them to be particularly viable incentives.

But, Mr. Vice-President, the other thing, too, is that we have also heard the Minister of Energy state, in this Chamber, that the Government was moving towards a policy whereby 10 per cent of the shares of these big foreign investors would be held for local investors. I see nothing about that in this legislation; I heard the Minister say nothing about it. So is this just pie in the sky? Can we ignore the Minister of Energy? Or is that imminent, or is that of any consequence, at all? What is happening there?

The other thing, too, Mr. Vice-President, is that if we are going to provide guarantees to these foreign investors for access to foreign exchange—which I find is an extraordinary position to adopt—why can we not extract certain guarantees from them, insofar as research, development, and education are concerned? [*Desk thumping*] I know from personal experience in Canada, that the kinds of numbers that are extracted from the foreign investors in Canada, in terms of the size of the numbers compared to the size of the investment, that these foreign investors must guarantee to invest in research and development, specifically at the universities; and in terms of education and funding of grants for students to go to universities. If we are going to provide foreign investors with guarantees for access to foreign exchange, what about the requirement for statutory guarantees as regards research, development, and education? This is our country. [*Desk-thumping*] I have no particular difficulty greasing the wheels and making sure that things work well and efficiently for foreign investors—after all, that is what government is all about—but, at the same point, Mr. Vice-President, this is our country, and the primary beneficiaries of legislation like this, must be the people of Trinidad and Tobago.

I thank you very much, Sir.

11.45 a.m.

Sen. Martin Daly: Mr. Vice-President, I say without any reluctance whatsoever, it appears to have fallen to me to introduce this bill or, at any rate, to introduce it in relation to the parts of it to which the Minister did not refer. We are taking a very serious step with this bill and I am going to try, Mr. Vice-President, to introduce this bill as candidly as possible for the information of Senators.

The Minister highlighted certain changes between this bill and the existing Foreign Investment Act but, no doubt as an oversight, probably because he was spending too long in his references to what the commercial policy was, he did not refer to two of the most fundamental deletions in this piece of legislation to which I will come. But we are taking a very, very serious step here and I think it is very important to outline, as I see it, precisely what we are doing.

May I begin, Mr. Vice-President, by restating, I abhor xenophobia. I have no problem with foreign investment. Indeed, as the Minister suggested, perhaps with an exaggerated view of my portfolio, I have foreign investors as clients, but that does not blind me to the fact that we, as a condition of foreign investment, have to negotiate the best possible terms that we can for the country, and to that extent I am in total agreement with Sen. Montano. So let me explain what it is we are really doing today.

Yes, it is true that as a result of the attempts by Mr. Oliver Jessel in the 1960s to acquire Alstons and other local companies, there was a bout of panic and the government of the day passed or extended the Aliens (Landholding) Act effectively to produce a complete ban on the acquisition of land and shares in Trinidad and Tobago without a licence, a complete ban. The exceptions were of no consequence. Then the next major step we took was to pass the Foreign Investment Act of 1990. We have to keep in mind all of the time that there are two primary subject matters of this legislation, one is land and one is shares. This debate will go very little place unless we keep in mind that there are two primary subject matters, land and shares. Of course there are other things but those are the key elements of this foreign investment policy.

So let me repeat. As a result of what happened in the 1960s we had a complete ban on the acquisition of land or shares without a licence from the Minister. We took a different policy turn in 1990 and we provided that as long—we lifted the ban, that is the way to look at it, we lifted the ban but only to a certain extent. We lifted it to a degree and we provided, first of all in relation to shares, that unless

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your investment was going to produce foreign ownership in excess of a certain per cent, you did not require a licence for those shares up to a certain per cent, a partial lifting of the ban on share ownership. With regard to lands, there was a partial lifting of the ban and partial lifting included acquisition of five acres or less for commerce or industry without a licence, acquisition of one acre or less for residential purposes. That was a partial lifting of the ban. So that is where we stand at the moment.

Now, in order to safeguard that policy, there were certain things, very sensible provisions, that were put into the 1990 Act. There were three principal safeguards to make sure that there was no abuse of the legislation. Those safeguards were, first, that you must pay in foreign currency; secondly, that if you breached the provisions of the Act, whatever you acquired in breach of the Act would be forfeited to the state. Now, there in turn were safeguards for the forfeiture procedures, but it would be forfeited to the state. There was also a prohibition against using a trust as a device to mask the fact that the owner was really foreign.

So, let me repeat. There was a partial lifting in relation to shares, a partial lifting in relation to land, supported by three safeguards—payment in foreign currency, forfeiture of the subject matter if you breached the Act and a prohibition against trusts. Now, what the Minister has not told us is that nowhere in this legislation have—what they are doing is repealing the Foreign Investment Act, which I do not think is necessary at all, I think it could have been amended, but I will come to the reasons why I think it is being repealed.

What the Minister has not told us is that the situation with regard to the safeguards is completely changed. I will come back to the shares and land issue in a minute. The safeguards in relation to the administration of the Act are completely changed. He has told us that they have removed the requirement for the payment in foreign currency. Now I will deal with that separately in a while. But he has not referred to the fact that they have deleted from the legislation the prohibition against the formation of trusts. So any lawyer, however undistinguished, who has done the compulsory examination in the equity and law of trusts, will be able to, even before he left law school, form a trust to mask the presence of the foreign investor, and I am going to be putting up a number of amendments and I am certainly going to be asking the Government to repeat in this legislation, I think it is section 11 of the previous Act, which creates a prohibition against trusts.

Far more worrying is the fact that under the new legislation, if you breach the provisions of the Act, you pay a one-off fine of TT \$100,000.00 which Sen. St. Cyr has reliably informed me is US \$16,000.00 more or less. So we have made a major change in the safeguards in the Act and now for US \$16,000.00 you can breach the Act. So really, what is the point of having an Act at all? That is just an extra premium you would pay if you cannot be bothered to comply with the provisions of the Act and I do not see what possible objection—what is it, FIAS? F-I-A-S, yes FIAS—I do not see what possible objection—[*Interruption*]

What is it? I had better call them the World Bank, let us call them the World Bank, because FIAS is really a mask for the World Bank. I do not see what possible objection they could have. Whatever law we put down, I do not see what possible objection they could have to our repeating the trust provision and the forfeiture provision. You cannot go into any metropolitan country in the world and break the law with impunity or pay some trivial fine. I ask again, what possible objection—before we get into the policy of foreign investment and how far the threshold should be lifted is another matter, could they have for our repeating the prohibition against trusts and the forfeiture prohibitions, particularly because if we attempt forfeiture—which is what compulsory acquisition is by another name—we have to pay them in a manner more favourable than what the local citizen gets on the compulsory acquisition of land?

So let us get something straight. When we talk about dealing with these world agencies and so on, I know we are very small but we are not stupid. We are not stupid. Indeed once the politicians leave us alone we have great resilience. May I say in passing that I attribute the revival of certain sportsmen to the fact that certain politicians have left them alone. The “obeah” of the motorcade has been lifted. It took a long time. [*Interruption*] No, I prefer obeah. Voodoo suggests, you know, things that we do not really like. I am certainly not going to comment on that foreign investor, which is what he was. So let us go on.

Now, if we have to give terms about what we must do when we forfeit, then I say “even Steven”, they should be satisfied for us to repeat the forfeiture provisions. They are perfectly constitutional and they are a penalty for an infringement of our law. So even Steven. Do not come with this US \$16,000.00. If you want to make it \$100,000.00, make it \$100,000.00 for each day that the offence continues. For each day that they possess something in breach of the law and the offence continues, make it \$100,000.00.

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Indeed, I have not checked this but there are Senators on the other side who would know immediately whether I am right. I believe for certain industrial relations offences there are penalties for each day that the offence continues. So if our working class or our employers break the law they are penalized for each day that the offence continues, but if the foreign investor breaks the law he makes a one off payment of US \$16,000.00. That is completely unacceptable to me and I suggest it is not even-handed, particularly in light of the provisions for compulsory acquisition.

May I make the point again, Mr. Vice-President, that the provisions for compulsory acquisition here produce a more favourable assessment of value than the Compulsory Acquisition Act which provides for compensation for the compulsory acquisition of land, and indeed I am sorry to say, not only is the rule for determining the compensation more favourable but they have written in the obligation on the Government to pay promptly. An obligation does not exist under our Land Acquisition Act and anyone who has served in this Senate for a month will know that we constantly have these problems of people waiting 10, 11, 12, 14 and 15 years to pay.

So I am all in favour of saying people must be paid promptly but I just remark in passing because, you see, I am weighing the scales, Mr. Vice-President. When I am finished the scales are going to be below the desk. I will be standing like this [*Indicating*] when you weigh up the scales of what we are doing here. I do not have a problem with paying promptly. I definitely have a problem with the foreign investor getting preferential treatment for the assessment of the value of his subject matter than the local. I have a problem with this derisory fine and I have a problem with the removal of the trust provisions, and I have those problems, regardless of where we take the debate, about what level of restrictions we should have on foreign investment. I have sought to make that extremely plain.

12.00 noon

There is absolutely no doubt—and there are others far more qualified to speak about this than myself, on all sides of this Senate—that the existing provisions with regard to one acre for residential and five acres for commercial have been thoroughly abused, and I know *Sprechen sie Deutsche* [*Desk thumping*] and there is no penalty. But I really do not want to get to that because there are others here who will give you the benefit of their first-hand observation. Nothing has happened and nothing has been done. The planning authorities who seek to raise a

fuss over every trivial home improvement have done nothing about these abuses, where it is quite demonstrable that one acre is not being used for truly residential purposes.

I am minded, Mr. Vice-President, when I submit my amendments, to submit an amendment that those exceptions be removed altogether, or that the land be made so small that it is not capable of abuse; maybe 10,000 square feet, 15,000 maximum. Many of our most well heeled citizens live quite comfortably in the better known residential areas on 15,000 square feet of land, so I am very much minded—but I am waiting to see how the debate goes—to say that those exceptions with regard to land should really be quite reasonable. Who needs to live on an acre in a small island? It is very nice if you have it. Maybe we will think about reducing it to 15,000 square feet for residential, and an acre for industrial purposes. We will have to see how the debate goes, and I do not want to do all the work.

Mr. Vice-President, let me come back to the shares and land issue. What we are proposing to do today is to remove completely any requirement for a licence with respect to the acquisition of shares, and we must state that boldly, promptly and candidly: let us not muddle up the thing. There is absolutely no element of meaningful regulation, where shares are concerned, under this Act. I am not saying I have a problem with that, but I want Members to know that is what we are doing. We have gone from partial ban to 30 per cent, to no ban at all. I am not saying I have a problem with that. What I say is, if we are going to be so liberal in the pursuit of globalization, all the more reason to have the stiff penalties that existed before. They cannot complain about it. So that is a major change which has not as yet been introduced into the debate. It is a complete removal of restrictions. I do not say whether I have a problem with it one way or another.

With regard to land, what we appear to be doing is leaving the 1990 position in place, that is to say, for land you still need a licence subject to the one acre and five acre exception. Those are some of the major things that need to be highlighted.

It is perfectly clear—and I noted some embarrassment on the part of the Minister in relation to some of the questions—that this piece of legislation is part of legislation to which we have been forced to agree in the international negotiating arena. I will tell you Mr. Vice-President what makes it clear, and I will turn to my other problem with this Bill. Much of what we are being asked to do by

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way of legislation does not require legislation at all. In other words, there are three parts of this Bill that are complete window dressing, and I have no doubt that the window dressing has been put there to pacify the foreign investors. I do not mind doing it because we are not giving away anything that does not already exist.

We cannot even be thought of as a banana Republic anymore, because you do not want us to be a banana Republic. It is not even as though they think we are a banana Republic. If they want the window dressing, well, let us give them, but let us be clear that they are making big men and women, as we say in local parlance, sit down and waste legislative time doing window dressing. Let me show you what I mean, Mr. Vice-President.

We do not need to pass a law to define the functions of the Tourism Industrial Development Corporation (TIDCO) and the National Gas Company (NGC); that is just like a code of practice. You could issue a code of practice and do away with Part II of the Bill altogether. That is just a code of practice, how we would like it done administratively, so we do not need to spend the whole day debating clauses 6 and 7. Sure it is very convenient, I am grateful for it, it helped me in the pursuit of my business that you have set out in a Schedule where all the various incentives are to be found, but that could be part of your code of practice. If you had a public relations man who was as good as your colleague, the Minister of Public Utilities, you could issue a booklet like this to all embassies abroad and all prospective foreign investors; so that is window dressing.

Then Part III, of course, just repeats all the stuff about land. I will come back to the guarantees. Part V is window dressing because under our present arrangements and our present level of civilization, no one could stop a foreign investor going to court, or to some mutually agreed form of arbitration whether locally or internationally, so this is like a letter of comfort. I do not know why we have to gather here to issue a letter of comfort, the Government could just as well do it without us, but it is window dressing. What it does tell you is, who is driving this Bill and why. I do not have a problem with it, but I think we have got to be very clear that, basically, today we are carrying out the wishes of world trade "big boys". That is what we are doing.

If we go back to Part IV which deals with the guarantees, clause 21 covers compulsory acquisition, and I have already touched on that. Clause 21(1) is simply declaratory of what the law is in Trinidad and Tobago, so that too is window dressing. Unfortunately, we then go on in 21(3) to provide the more favourable rates of compensation that the local citizens get. In any case, whether

we had a compulsory acquisition law or not, the Constitution of Trinidad and Tobago forbids compulsory acquisition. So what they are really contemplating here is an overthrow of the Constitution, that is what they are really saying, we want a guarantee against an overthrow of the Constitution, because you cannot deprive persons of property without due process of law. If they are worried about this ruling by edict, it shows the view they have of us.

Like Sen. Montano, I have a gigantic problem with the guarantees in clause 19: I have a huge problem with that. Basically, we are giving an enforceable charge on our Treasury regardless of the circumstances, and I cannot accept that! You are making the repatriation of funds a first charge on the Treasury. This is not just words, if they told you this is words, this is not a letter of comfort, this is giving them certain rights which they would be able to enforce against you as an absolute minimum! Of course, we are getting no reciprocal guarantees. In fact, our best guarantee which is the anti-trust and forfeiture provision, they want to take away from us. So "even Steven" I am going to dislocate my shoulder like Chanderpaul trying to roll up the scale.

As an absolute minimum, I would be proposing in due course, in writing, an amendment in the third line after the words "shall be entitled," to say "shall be entitled as far as practicable to transfer out of Trinidad and Tobago." You mean to tell me—we do not have hurricanes—but if some act of nature destroyed us and our economy—like Honduras and these places—and we need foreign exchange to buy medicine and raw materials to rebuild schools, and for the very reason that in the aftermath of the storm the foreign investor has pending—he has not done it yet it is not the end of his financial year—the payments of dividends, management fees, retirement of foreign debt when the storm struck, he is going to step over the bodies in the street and go to the Treasury and demand a first call on our foreign exchange? I know sovereignty means absolutely nothing, but enough is enough! This has got to go, or at the very least, it has got to say "the absolute minimum as far as practicable".

If they tell you—as they have said privately—that if you accept what Sen. Daly says, the country would be visited by sanctions, tell them, visit it. Because I had the unpleasant experience of being told in a semi-private committee setting, where I moved an amendment to the Competition Law which the Government accepted, that sanctions would be visited on us by January 1 of the following year. Well, they have not come yet, maybe New Zealand Post has them lost in the mail.

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So really, this is poor negotiating. You cannot allow persons on the other side of the negotiations to put your back to the wall, you have a responsibility to the country. However difficult it is to carry out that responsibility—and I am trying to speak with the least bit of stringency I can manage—you cannot put our back to the wall, or commit the country to giving anybody a first charge on our foreign exchange, because there are contingencies that may arise which would require us to deal with that foreign exchange differently. It is not a question of sovereignty anymore, but of what is practical, and whether this is an efficient discharge of our responsibilities as a Government. We are taking part in Government today by passing this Bill to do that, so at the barest minimum, we must have "as far as practicable". I am probably going to produce an amendment with more limiting words than that, but that is the barest minimum that should be acceptable to all of us.

Mr. Vice-President, there are a lot of teeth in this Bill but unfortunately these teeth—and of course, I know that Sen. Wade Mark is letting me have his approval by those noises he is making. [*Interruption*] I know he is recommending them quite wholeheartedly. That brings me to another matter where I know I will have much support on the Government side. It may not be so vocal, but it may be very resolute.

I know that Tobago is good at many things. I had the pleasure yesterday of enjoying some Tobago singing, where I had to go to the Music Festival to present a cup donated by my aunt who was a founding member of the Music Festival, and never asked for an award, by the way. She founded the Music Association in 1946 and was First Secretary to the Music Festival in 1948, she gave a cup for folk singing. The Dalys were always slightly ahead of their time. When they were still singing foreign songs, [*Desk thumping*] she gave a cup for folk singing. I go every year—my aunt is dead now, I went when she was in a wheel chair—but this is the first time since she died, and I am being sentimental about it, because I had to present the cup to Tobago again yesterday. [*Desk thumping*] The gentleman from Tobago—I did not recognise him by face—but he remembered me, and he said, Well, it is mine again, Sen. Daly," which I thought was absolutely wonderful.

So I know they are good at singing and they are also very resolute, just as Sen. Mark is going to be resolute in supporting my recommendations about protecting the Treasury and providing the proper penalties. He was very strong on penalties. Do you remember the Acker debate, when the PNM, sorry, the then Government, was selling BWIA to Mr. Acker, and Sen. Wade Mark and Sen. Capildeo read out—[*Interruption*] "transferring" is a better word, I am much obliged for the correction, the culture is doing the Member good—large tracts of a whole book

that had been written about Mr. Acker and who he had brambled, prior to coming to Trinidad and Tobago. So I know that Sen. Wade Mark has a special place in his heart against bramblers, and would like to see these stringent penalties.

I know I am very secure when I seek to re-introduce the prohibitions against trust and the forfeiture provisions, and reintroduce them I am going to. So ring up now and find out if we are going to get sanctions against us if we produce an effective sanction against breaking our law. Find out if it is sanction for sanction. I do not think they are so crazy, especially after we made 431, we have really restored our place in the world, happily. I could not make any call to London anytime last week without being laughed at, so I think now is a good time. Although I do not want politicians riding on the back of Lara again, so I take that back. It was done once before and produced a devastating loss of form, but anyway, let us get back to the Bill.

12.15 p.m.

I have some difficulties because nowhere in this legislation do I see any reference to the Tobago House of Assembly or any authority in Tobago. So that the authorities who are going to decide about foreign investment in Tobago, are purely Port of Spain centric. So like the Tobago House of Assembly does not exist.

So, a foreign investor comes in here, goes to TIDCO—where is TIDCO now, has it moved to Chaguaramas completely?

Sen. Prof. Spence: The hon. Senator will be pleased to know that I have just written an amendment to this Bill which introduces the Tobago House of Assembly.

Sen. M. Daly: More than pleased, because I have great respect for the legal drafting of my colleague. It was correctly mine on more than one occasion, so I need not spend any more time on it; and in any case, we are assured of tripartisan support for this amendment. I see Sen. Moore, and Sen. Williams chatting—no doubt as when Sen. Wade Mark was grunting—they are telling each other, what a good amendment yours is.

So, we are assured of tripartisan support for the amendment with regard to Tobago. I am making light of it Mr. Vice-President. As I made certain promises to those in front me about speaking stringently about their past, I have made certain

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promises to the more charming members of the Government about speaking stringently about the Government. So, I am making light of a very important issue.

There is no way you could have a foreign investment procedure that leaves out the Tobago House of Assembly, and indeed I know that Sen. Spence and Sen. Kenny are battling resolutely in the case of the Planning Bill, to ensure that all that has been said about Tobago and the value of their land—well the land really translates itself in terms of two seats and I daresay those two seats have a current market value. So, I daresay we will assess the value of Tobago land in accordance with these new principles for the assessment of land, and in political investment. So, we could move on from Tobago.

Now, I am very disappointed finally Mr. Vice-President, if I can touch on a few—well, I asked the Minister about clause 4, and he told me the purpose of that exception was to make sure that we were not—he did not use this language, although the word is of a length and complexity that he might like to have used. He was really saying that this legislation must not derogate from the banking and insurance and petroleum legislation. I wish it would say that, rather than saying the Bill does not apply to them; because I think then, you have a kind of drafting problem. If this Bill does not apply to them, what Bill does? But anyway, if that is the intention, that is a matter for your draftspersons.

Mr. Vice-President, I am very disappointed about the contradictions which other speakers have already identified both from the Government side—it is really amazing what a tripartisan approach we have today. I can look in front of me, and down in front of me and find support for all that I am saying. There are huge contradictions between what is in this Bill and Government's policy. Of course, the reason that there are those contradictions is that again they favour the foreign investor.

I would invite hon. Senators to look at the First Schedule on page 11; and I do not think you can have any doubt whatsoever that permitting under the Income Tax Act—look at section 13A, the reference to the Income Tax Act. I do not think you are going to have any doubt whatsoever Mr. Vice-President:

“A deduction up to a maximum of twenty-five per cent of the investment is allowed for a person who makes an investment in the equity capital of an approved hotel or tourism development project”.

That is a subsidy. We are saying, notwithstanding the real value of the money that you have invested we are going to give you a deduction, we are going to give you a concession. Have I got it right Sen. Montano? We are going to give you a

concession for investing with us. That is a subsidy. And if we have to give this subsidy, which I do not have a problem with—as long as the Tobago House of Assembly has something to say about the development of a hotel in Tobago, I do not have a problem with this.

But how dare they tell us that we must remove our subsidies if that is what they are. Now, let me in the best traditions, declare my interest. I am a Director of a manufacturing company which produces one of the proudest products of Trinidad and Tobago which will be hurt by the removal of the export allowance. So, let me declare my interest. But I am merely saying, notwithstanding the declaration of my interest, who are they to tell us, they want guarantees and we have none? Who are they to tell us what we must pay for forfeiture and we cannot have forfeiture provisions? Who are they to tell us that we must get rid of subsidies, if that is what they are, that protect some of our most famous products, but it is all right for us to have in our legislation subsidies for them? That is a complete contradiction in economic policy.

The other contradictions, Mr. Vice-President, have already been referred to. Then the Minister of Trade tells us, but you know we are now moving to performance criteria, that when you get the status, you get the benefits of the Act. Where are the performance criteria in here, Mr. Vice-President? There are none, that is just words. That is just the words of a salesman. Not that the Minister is a salesman, but he is selling the brief that his public servants gave him. That is salesmanship. There are no performance criteria in here

So it is possible for this Government to do the same as the previous governments, that is, to sit back and do not monitor the progress of foreign investment, because they have no lawfully enforceable performance criteria. I give way.

Mr. Assam: I do not come here and talk about what civil servants give me at all. It is very misleading. I come here and say my thoughts on the policy of the Government. But I think you misunderstood what I was saying, unfortunately. I said, this is what the FIAS report wanted us to do: to reduce corporation taxes from 40 per cent to 20 per cent, based on a performance-oriented system, but we could not do it because our taxation base was being eroded. I thought I was very clear in my statement. So, to come and say there is no performance oriented thing in this Bill, is not true, it is misleading; because I said, that is what the FIAS recommended. We could not go to it, because we could not chop the corporation

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tax structure from 40 per cent to 20 per cent: that is the point I made. You missed it, unfortunately, Senator.

Sen. M. Daly: I of course would be equally agitated if I were under a foreign yoke. The point I am making is this. The Minister made a clear criticism of previous governments. In fact, he was historically inaccurate when he referred to us as having several governments. But anyway, he was very specific in his complaints about previous governments not doing anything to monitor the performance of the foreign investor once the foreign investor got the benefits. Let us go and get the *Hansard*. I know it was FIAS that recommended it. He talked in that context about having performance criteria, but there are none in here; and I think it is a good idea, so I think you should put them in here.

He was very, very clear in his criticism of previous governments. So that I, like other speakers, including those on his side, have detected these contradictions.

Now, Mr. Vice-President, I would like just finally to deal with the question of the statement that this Bill contains clauses that are superior to the present Foreign Investment Act. They are not superior at all. I just say that by way of comment in relation to what I had been pointing out about the penalties.

12.25 p.m.

The last point with which I would like to deal is the question of payment in foreign currency, and it is this: In practice, there have been difficulties under the old Foreign Investment Act with the payment in foreign currency in every case; because in many cases the investment might be taking place as a result of a short exchange or some other mechanism that would not require the passing of money considerations. So we have, in practice, run into difficulties—with which I am sure you are familiar, Mr. Vice-President—of making it a requirement that all transactions must have a payment in foreign currency. But I question whether we need to go to the other extreme and say that you do not have to pay in foreign currency. I would have preferred to see a negotiation where the normal method of payment was foreign currency, unless we satisfy the minister that there was a good reason for paying in another currency such as a share exchange or whatever.

You see, Sen. Montano has touched on this. If we have to guarantee them foreign exchange for their requirements, you could have a situation where they do not bring one penny of foreign exchange into the country, but have a guarantee

from us that they will get foreign exchange when they want money to leave. I have a problem with that. “Even Steven!” If you bring in foreign currency, we will guarantee, subject to the overall national requirements in the country, that you get back your foreign currency whether you want to pay dividends, management fees or whatever.

I am sure that the Minister of Trade & Industry and Consumer Affairs and Minister of Tourism is well aware of the considerable abuse to which the concept of management fees is bought. So, I think we need to be very careful. Management fees are frequently used as a device—and I am always very comforted when I hear the distinguished economist agree with me—to over-invoice, to get more money abroad than is necessary. So, I have a problem. Really, what I am doing is highlighting the further imbalance. I think—I never use the word “withdraw”—this Bill needs more consideration because I have a problem with its complete removal. I agree that there are practical problems.

Even if we are not giving a guarantee, even if you accept the minimum as far as practicable, if the objective of the Bill is to give some comfort to the foreign investor, he can get his dividends or his management fees out in foreign currency, but he really should not be taking out what he did not bring in. To me that is common sense, and I think we need to look at that. I think that goes beyond the drafting; I think it is a policy matter that we need to look at very carefully.

So basically, this Bill is not very equitable towards Trinidad and Tobago, and I have difficulty with that. I certainly will keep to my promise and produce a few amendments for them. But really, it is no point drafting amendments in relation to the non-payment of foreign exchange unless the Government is going to reconsider whether there is a complete lack of balance in those provisions as there is in so many of these other provisions in this legislation.

So to summarize, Mr. Vice-President, we are being asked to remove completely, we need to have a licence to buy shares. We are being asked to dilute, almost to non-existence, the penalties for the breach of the Act; we are being asked to issue Letters of Comfort in the guise of legislation, and most of all, we are being asked to give guarantees in relation to financial matters that really are not consistent—never mind we being a sovereign government—with practicability and common sense.

I thank you very much, Mr. Vice-President. [*Desk thumping*]

Mr. Vice-President: It is now 12.30 and an opportune time to take our lunch break; therefore, we will suspend the sitting for one hour and resume at 1.30 p.m.

12.30 p.m.: *Sitting suspended.*

1.30 p.m.: *Sitting resumed.*

Mr. Vice-President: The debate on the Bill entitled an Act to provide for the promotion of investment in Trinidad and Tobago, and for the repeal of the Foreign Investment Act, 1990 will continue. Senator Mc Kenzie.

Sen. Dr. Eastlyn Mc Kenzie: Mr. Vice-President, there was reference already to the total omission of anything about Act No. 40 of 1996, the Tobago House of Assembly Act, and I am sure by now the hon. Minister would have seen this as an omission, and that something would be done to amend this situation.

Mr. Vice-President, the situation with Tobago—apart from the Assembly being totally left out—some experiences would tell us that there must be other matters taken into consideration, apart from those mentioned in the Bill. Firstly, we do not have very much land in Tobago, and when you say: “plots of an acre for residential purposes,” we think that is very much land. We are accustomed living on a lot of land, 5,000 sq. ft, or just about that. When you give one person eight lots, I am not sure that without any licences, and this free-for-all, as long as you have money you can buy, one does not need to have a licence. I think we need to look at that amount of land for residential purposes.

Secondly, Mr. Vice-President, we have had the total abuse spoken of by Sen. Daly. There are many instances of foreigners buying land for residence, they say, and they occupy their residence for two months of the year and the other ten months of the year the houses are occupied by foreigners. We know of very many instances where these houses are used as guest houses. The relevant licences, and whatever one has to pay as guest houses, are not paid. We think it is a great big abuse and something ought to be done.

Thirdly, not only for those who behave like that, but for those who claim to have their homes as residences, but later on they openly change them to guest houses. Is there anything in the Bill to cater for, prevent, or for us to know whether someone can acquire lands, or have buildings for this purpose and then change to another purpose, and nobody being any the wiser? This is another thing that I would like us to look at.

Another point, Mr. Vice-President, I know of one foreigner buying a piece of land and the next thing you know is another foreigner owns it, because he sells his piece of land. The Tobago House of Assembly right now is dealing with lands at Signal Hill and at Belle Garden, where the National Housing Authority should hand over those lands, but because of the Tobago House of Assembly Act, they now have to do a Memorandum of Understanding, handing over that authority to the Tobago House of Assembly. The Chief Secretary has a problem with some clauses in the National Housing Authority deed, which say how long one can keep the land before one disposes of it. If we have these free-for-all sales, free-for-all purchases, no restrictions or rules—nothing—there can be a very profitable business going on underhand with the sale of lands and buildings in Tobago.

Mr. Vice-President, we ought to ensure that all foreigners wanting to buy land, or to invest in whatever it is, in Tobago, must get the approval of the Tobago House of Assembly, whether it be licence or no licence—the approval of the THA, which would state, not only that you have been given the green light to buy the land, but also that there are such and such restrictions put on you.

Just a few months ago there was a big ‘blow-up’ in the newspapers about a foreigner who bought lands, constructed a house in Pembroke, fell out with his neighbours, and then applied for citizenship, thinking that this was automatic, as long as he owned building or land, it was automatic that he gets citizenship. That family only had a limited time to stay in the island. When the time was up, they went back to the immigration department that told them their time was up and they had to leave. There was a big hullabaloo, because they thought that as long as they owned property, it was automatic that they become a citizen.

We have to clear these things up, and I think, if the Tobago House of Assembly has to give approval before one can purchase land, all these things would be spelt out. There must be a policy where the Tobago House of Assembly must be responsible for the acquisition, purchase, sale or whatever it is of lands in Tobago; whether for residence or investment; the conditions, length of ownership before resale, looking into the activities that are carried on, whether they are really used for the purposes that were stated, whether one would have changed the original use to something else, and whether we are not thinking of too much land for residence. One acre of land in a small island as ours, is a lot of land.

Mr. Vice-President, I also looked at a few clauses, on page 5, clause 8(2) it says:

“Any person who knowingly contravenes the provisions of subsection (1) is guilty..... and is liable..... to a fine of \$15,000 or two years....”.

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I think this is so minimal. I think we should make the punishment much more stringent than it is. The fine should be increased, plus imprisonment. The gains one would get from contravening the rules are so great, that it pays. You could do a very good business in contravening the Bill all the time.

Mr. Vice-President, I looked at the Second Schedule on page 6, and it says you must report what you have done. And I ask: "Why are they doing it after they have closed the deal, and not somewhere during the process of the deal, before they close the deal? What can be done after they have closed the deal?"

Senator Daly took up my point on page 9, that we are making sure that these people are paid promptly, and we have so many people whose lands have been acquired and they are still waiting for prompt payment, after 20 and 30 years.

1.40 p.m.

Mr. Vice-President, I was not quite sure about the meaning of the word "President" in clause 25 on page 10, which says:

"The President may make regulations for all matters concerning the administration of this Act."

Somebody said that it is just another way of saying the Cabinet, or the Government.

Mr. Vice-President, I hope that Sen. Prof. Spence's amendment would come as he has indicated, and I am sure at that time more would be added.

Thank you.

Sen. Cynthia Alfred: Mr. Vice-President, when I listened to the Minister of Trade, Industry and Consumer Affairs and Minister of Tourism, I was left with the distinct impression that this was a foreigner's Bill, because everything is geared towards the good of the foreign investor. It is a Foreign Investment Bill, but at the same time, why would one want to practically give away one's country and I am reading this between the lines and I would explain. Before I get to that, I wonder whether this Government has ever sat and worked out a philosophy for sustainable development for this country of Trinidad and Tobago? I wonder if this Government has ever taken into consideration the type of people we have in this country, the brilliance in the creative expressions of the people, the aspirations and tendency of the people of Trinidad and Tobago?

I am of the opinion that this piece of legislation, as other pieces of legislation, lacks cohesion. It is a sort of piecemeal type of legislation. One says, let us amend the Foreign Investment Act, and they go through the procedure and they find the Foreign Investment Act is amended. The Minister says that he is hoping that one day we would move to one single economy that is Caricom. Yet, in this Bill—correct me if I am wrong—Caricom is linked with the foreigners. It is stated clearly here in the Foreign Investment Promotion Act in section 2 that “Caricom member country” is one definition and there is another definition of the words “foreign investor”. It is saying that there is a difference between your Caricom partners and those outside of Caricom, but in this Bill all are lumped together which tells me that Caricom would not be getting any preferred treatment. If we are serious about the agreements which we sign with the various countries, especially in this case, Caricom, then obviously there should be some sort of special consideration to be given to our Caricom neighbours.

Mr. Vice-President, the Minister said that the Aliens (Landholding) Act is reflective of the protective nature of the trade policy. What is wrong in having some sort of protection towards the property of the people of Trinidad and Tobago? Reasons were given, perhaps excuses, why the Aliens (Landholding) Act was not good, but to compound it even further, we were told that the FIAS indicated that the Foreign Investment Act is outdated. What does one expect if you are going to take a foreign company to report on a particular state of your country? Do you expect them to say that such an Act is good? If this Bill is geared towards them as it is, then they have every right to say that the Foreign Investment Act is outdated, but we are the people of Trinidad and Tobago and we are the ones who have to determine what is good and what is not good for us.

We come to the question of Tobago. My colleague, Sen. Dr. Eastlyn Mc Kenzie, raised certain points on Tobago and Sen. Daly also raised certain questions about Tobago. I would not want to go over everything that has been said, but indeed, when about two months ago I had cause to have dialogue with the Chief Secretary of the Tobago House of Assembly, one of the concerns I raised was the question of foreigners purchasing lands in the manner in which they are doing and he did assure me that, that is something which the Tobago House of Assembly is very concerned about and it is in fact, doing something about it. I ask myself what can the Tobago House of Assembly do about it if it does not get the necessary authority?

Here it is that apart from the other areas that have been spoken about, I mentioned that—and it was taken as a joke—one person brought into Tobago eggs

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of dangerous snakes and had them distributed in several parts of Tobago and the intention behind it was to introduce dangerous snakes into Tobago. When I mentioned it, persons on the Government side laughed, they thought it was a joke. I do not see anything funny in bringing eggs into a country where you have no dangerous snakes and hatching the eggs. I suppose the intention is to keep out residents, local people from what is truly their patrimony. I think it is disgraceful and unless something positive and definite is done, these investors would feel that they have control of Tobago. As a matter of fact, if the situation continues, very soon the investors or the foreigners, the outside people would indeed be owning Tobago.

I have very strong objections to the question of the acreage that was suggested, but before I come to that, I would mention, as Sen. Dr. Mc Kenzie did, the question of—

Mr. Assam: I am not too sure when the Senator said she had strong objections to the acreage mentioned. Mentioned where?

Sen. C. Alfred: I said I would come to that afterwards. You probably did not hear that part. Patience, patience.

Mr. Vice-President, before I come to that part, I refer to page 5 of the Bill clause (8) 2 which says:

“Any person who knowingly contravenes the provisions of subsection (1) is guilty of an offence and is liable on summary conviction to a fine of fifteen thousand dollars or two years imprisonment.”

The question of summary conviction to a fine of \$15,000 or two years imprisonment. I know it was mentioned, but I wanted to reiterate what I said about no collaboration, because about four or five weeks ago when we were dealing with the Traffic (Amdt.) Bill, there was a question of \$50,000 or six months imprisonment which was amended to \$50,000 or one year. Now we have \$15,000 or two years imprisonment. It shows that there is some lack of dialogue within the ministries so they do not come up with something that is acceptable. Fifty thousand dollars, one year; fifteen thousand dollars, two years. Something is wrong there.

I was making the point earlier, concerning the amount of land that could be acquired. On page 5, clause 10 says:

“A foreign investor may acquire land without a licence if the size of the land is less than—

- (a) one acre or less where the land is to be used for residential purposes;

- (b) five acres or less where the land is to be used for commercial or industrial purposes.

When we get to clause 11 it says:

—“Notwithstanding section 10, land may be acquired by a foreign investor with out a licence

- (a) on an annual tenancy or for any less interest for the purposes of his residence, trade, or business but the land shall not exceed five acres;
- (c) in pursuance of his rights to foreclose or enter into possession as a mortgagee, for a period of one year from the acquisition of such land or for such extended time as the Minister may grant;”

In other words, we are giving these investors privilege that has not been afforded local people and I can understand the Government to a point of wanting foreign investors, but I cannot understand why they should throw everything to the foreign investors and give them a most unbridled privilege. We cannot sit and agree that this should happen.

Clause 12(1) says:

“Where a foreign investor intends to acquire land in excess of one acre for residential purposes or in excess of five acres for commercial or industrial purposes, he shall apply to the Minister for a licence in respect of such land.”

I was going to move an amendment, but having some discussion with Sen. Prof. Spence, he too is going to move an amendment and I would go with his amendment. As Sen. Daly and Sen. Dr. Mc Kenzie said, one acre is far too much. We are talking specifically about Tobago which is 116 square miles, it is small. Already the South West has gone, and encroaches are being made further up. If we are not careful, the whole of Tobago would be taken over by foreigners and we are not going to sit and see this happen.

1.55 p.m.

I heard mention of the Four Seasons Hotel. I do happen to know that the establishment of that Four Seasons Hotel is one of the things that the Assembly will never agree with. So the question is raised, who determines the establishment of a hotel or of any big business in Tobago where land is concerned? Obviously, the Assembly must have a very important and definitive say in the matter.

We turn Mr. Vice-President to page 8, clause 21 and it says:

“Property not to be compulsorily acquired without compensation

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No property of any description shall be compulsorily acquired from an investor and no interest in, or right over property of any description belonging to an investor shall be compulsorily acquired, except for public purposes under an Act of Parliament relating to the compulsory acquisition of property and which provides for payment of compensation in respect thereof.”

Mr. Vice-President, that may sound good to some, but what happens to us. Here you are saying, that no one would have the authority to acquire compulsorily any land that has been purchased by an investor. Mr. Vice- President, one has to define the word ‘investor’. Suppose somebody comes in with \$50,000 and says “I am going to invest in Tobago.” Are we going to give him all the privileges stated here, plus whatever is on the schedule. Mr. Vice-President? No! People in Trinidad and Tobago are experiencing so much difficulty in getting paid for their land, compulsorily acquired, and here you are telling us that nobody has the authority to interfere in the transactions of any foreigner. He buys land and, therefore, you cannot interfere.

I want this to be very clear, Mr. Vice-President, I have nothing against foreigners. I lived in a foreign country for six years; I travelled all over the world. I have nothing against foreigners, but one has to protect one’s turf, and in this particular instance, I see that our turf is being given away. Not, perhaps, intentionally, but if the Minister and the Government were to re-read this whole Bill, they would see where the weaknesses lie. I believe all of us, Mr. Vice-President, are working towards one goal: improvement, betterment for Trinidad and Tobago, but we may not and cannot have that at the expense of the residents of Trinidad and Tobago. [*Desk thumping*]

Mr. Vice-President, I would like now, to wind-up my contribution by reiterating certain matters. The Tobago House of Assembly having been duly constituted, is a reality and it is not a football to be kicked around when things look good or bad. In other words, it is not to be used conveniently. I take umbrage, Mr. Vice-President, at the fact that this piece of legislation has been brought about and there was not one single mention of the Tobago House of Assembly and you are talking about tourism. [*Desk thumping*]. I take umbrage at that, I take offence to it, because it is indicative of the—

Sen. Mohammed: Contempt!

Sen. C. Alfred: —the manner in which the Tobago House of Assembly is regarded.

Somebody asked earlier Mr. Vice-President, whether I am supporting the Tobago House of Assembly. I would like to put on record, Mr. Vice-President that I am from Tobago, that the Tobago House of Assembly came into being through the People's National Movement. [*Desk thumping*] Nobody else, no matter who claimed it. [*Desk thumping*] So, naturally, I am very supportive of the Tobago House of Assembly. The Tobago House of Assembly is not a political thing and anything that is done to subvert the cause of the Tobago House of Assembly, I take offence to it, Mr. Vice-President.

Mr. Vice-President, I do not think, really, that the Government had intention of practically giving away what we have. Yes, other countries, as the Minister said, are having foreign investments, but it is not our concern whether other countries are having foreign investment, Mr. Vice-President. Our concern is to see that whatever we want for Trinidad and Tobago is what we get. We are not to be dictated to by any FIAS or anybody else. They want to come to Trinidad and Tobago, they will say anything against any Act that we have in Trinidad and Tobago in order to further their ends, and I do not disagree with them. We are all looking to see where we can benefit from whatever is to come out of any particular Bill or Act. So, therefore, it is incumbent on this Government and, by extension, the people of Trinidad and Tobago to determine what they want for their country.

Mr. Vice-President, finally, with all the talk about foreign investment, let us come a little nearer home. Here it is I heard complaints—it was last night, or the night before—we are having the Miss Universe Pageant in Trinidad and Tobago: to some it is a glorious matter. I am not saying whether I agree or disagree but the part Mr. Vice-President that hurt me and caught me is when it was said that they were going to demolish certain areas in and around Port of Spain to accommodate certain things and so forth. In other words, Mr. Vice-President, as the President of Pan Trinbago said: “Trinidad and Tobago is carnival, it is calypso, it is all the cultural forms” but the impression he gave and the impression he got was that it seems as if as many things as possible are being done to keep the host country, Trinidad and Tobago out of this Miss Universe Pageant.

At the end of it Mr. Vice-President, we have been promised that Trinidad and Tobago will benefit. We hope Trinidad and Tobago will benefit, because if you break down the north stands, I do not know how Trinidad and Tobago is going to benefit but, I expect that the persons who are doing this have had proper consultation, which I know they have not, and that they would ensure that

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Trinidad and Tobago benefits from whatever foreign intervention or investment will come to this country. [*Desk thumping*]

Mr. Vice-President, finally—I said earlier that I did not believe there was enough collaboration, enough dialogue, between various Members of the Government, and that was borne out when a Member on the opposite side, the Government side got up and queried certain things that were said by the Minister. Now you might say that is a plus for us, but I do not look at it that way. I look at it in this way: if there has not been enough dialogue between the Government Ministers or the Government representatives, so that one of them has to get up and question something that was said by a Minister, that is telling us that this Government needs to get its act together and indeed to look in a very positive and definite way at what is going to benefit the people of Trinidad and Tobago [*Desk thumping*]. I thank you, Mr. Vice-President.

Mr. Vice-President: Sen. Ramnath.

Sen. Kelvin Ramnath: Thank you very much, Mr. Vice-President. One of the noble traditions of Parliament, for those of us who have had enormous experience, is the freedom with which Members can get up and ask questions, even of their colleagues or of the opposite side. [*Desk thumping*] It reflects no lack of coordination. In fact, we are here to be educated, so that at the end of the process, we will come to an understanding and a decision that will best suit the interest of the people who have put us here. [*Desk thumping*]

2.05 p.m.

If the other side were having a caucus, they would not have so much massive public confusion as to determine who is in charge and who is not in charge. I do not wish to get into the warfare that currently exists among the leadership of a party that has now gone into oblivion.

I stand here to support my illustrious colleague, the hon. Minister of Trade and Industry and Consumer Affairs and the Minister of Tourism, Mr. Mervyn Assam, one of the persons possessing great oratorical skills and who has no difficulty in explaining very thoroughly what he has to say. [*Interruption*] I am glad that Sen. Shabazz has finally awakened from his slumber and I hope that he would use this opportunity to educate himself.

Mr. Vice-President, in listening to this debate, it takes me back to about 20 year ago when I first entered these chambers when we were discussing very early post colonial issues, when we were discussing concerns about who should be in charge of what, when the islands were divided and there were many problems between governments of the Caribbean, fight for territory and control. Certain Senators on the opposite side have sought to go back into that archaic period to reduce what is considered to be a forward-thinking proposal, a visionary proposal to take us into the realm of that World Trade Centre international trade borderless world. Instead, what we have here is people asking whether we should give them one acre of land or 5,000 square feet. They are totally misunderstanding the intent of the legislation.

The gracious PNM Senator from Tobago is advocating that the Tobago House of Assembly should have been consulted. I do not know about which faction of the Assembly she is talking; whether it is her faction or the Chairman of the Tobago House of Assembly's faction. They have not yet straightened that one out. While I take into account her concern about the size of Tobago and the fact that the land that might be purchased could, in fact, be larger than what can be available in Trinidad, she has missed the point completely.

Sen. Alfred: Tell us!

Sen. K. Ramnath: She has failed to understand that what this country needs today are service industries, tourism projects, projects that are going to employ the poor and the underprivileged, as well as the educated who cannot find jobs today, even though they have come out of university; bright young students who are on the job hunt looking for positions. And they are back into the days of the '50s and '60s, believing that they had an historical and divine right to rule and the way to rule is to own. If they only got a chance, they would nationalize the bus company, telephone company and water company again. That is how they control.

They broke all the rules in building Point Lisas. They cannot account, up to today, with respect to the rules that were followed for the construction of ammonia plants, steel plants, and methanol plants. As a Member of the Public Accounts (Enterprises) Committee, I was served with a writ.

Sen. Shabazz: What does that have to do with the Bill?

Sen. K. Ramnath: If the Senator would only listen, but his attention span is so short. As a Member of the Public Accounts (Enterprises) Committee of the

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Parliament, I was served with a writ, and the plaintiff was Dr. Kenneth Julien. Dr. Julien's lawyer is now the Chief Justice, and this Parliament was deprived as a result of the writ from investigating the conduct of Sen. Julien and members of the board of Plipdeco with respect to the spending of money under the PNM in the Point Lisas Industrial Estate.

The Constitution has not yet been amended to provide for the Public Accounts (Enterprises) Committee to call witnesses. That was the technicality in the argument.

Sen. Prof. Spence: Sen. Julien?

Sen. K. Ramnath: Prof. Julien; not Kenny. *[Interruption]* For those who do not know the facts, I would appreciate if you just listen. Up to today, this Parliament has no power under the Public Accounts (Enterprises) Committee to call a single individual from a state enterprise to give evidence, because the Constitution has not been amended. That loophole was responsible for people doing whatever they wished with state funds. Everyone in this Parliament knows, and only last week we would have received the Auditor General's reports on the performance of certain enterprises dating back to 1995. We are in 1999 and we are now getting audited accounts of things that happened in 1995.

The point I want to make, Mr. Vice-President, is that when Senators of the opposite side rise to make statements about foreign investment and the dangers that are associated with it, they should understand that it is the policy of this Government and the previous one—and to some extent, the PNM government before that—to eventually sell these enterprises to foreign hands or local entrepreneurs so that the state, having established in the first place a lot of these industries, can rid itself of the responsibility of these industries and acquire some money in the process.

The state can no longer get involved in the things that it did in the past. It has to be a facilitator. To hear statements coming from the other side about the dangers of foreign investment, we have to have a code of ethics. There must be an underlying ethos involved in dealing with people who come to one's country, and if one wants to deal with that, then deal with that. There might be provisions at committee stage and at other stages to deal with some of those issues. We are aware that people abuse things. There will always be that abuse, but the principle of the legislation is to facilitate not only foreign direct investment, but local investment.

Today, Trinidad and Tobago gets \$5 per barrel for oil. If we look at the price of Brent—I do not know if Sen. Marshall has the figure, I think it went up a little this morning—the marker crude or West Texas crude, and look at the predictions of Sir John Brown of BP Amoco that prices are likely to remain stagnant for the next few months and BP is going to let off 10,000 people instead of 5,000 and the crude oil is valued at \$5 less than the marker crude, one will understand the serious implications for Trinidad and Tobago.

Instead of blaming the Minister of Finance and the Government for a worsening economic situation, one will understand that there are certain international events that impact directly on the economy of Trinidad and Tobago. In fact, for every barrel of oil we produce, we lose US \$2. If we want to continue to remain an insular, narrow minded country, believing that the oil and gas will flow forever and people have no choice but to come to Trinidad and Tobago and buy their oil and gas and ignore the realities of foreigners wanting to invest in one's country, then we will face this repetitive situation. This has been going on for too long. Every time oil prices go down, the economy takes a dive, and it has not been happening today; it has been happening for a very long time.

Why do we not look at the state of Florida? A decision was taken in the state of Florida, which is very concerned about its pristine environment, that there should be no offshore drilling. Although they are in the Gulf of Mexico and the Gulf of Mexico is known to be a very prolific producer of oil, they took a decision that there shall be no drilling. They do not want to contaminate the Everglades, their beaches and their tourism industry.

They embarked on a programme in Florida of “deindustrialization”—if there is such a word. In fact, there is so much money in Florida waiting to be invested outside because there are no opportunities. The environmental standards are so stringent, and their water table is so precious to them that they do not wish to have even gas stations produce a drop of kerosene or dieseline into the sands. But what have they done? They have focused on a programme of tourism development at every possible level, from the guest houses to the low rise buildings to the rehabilitation of South Beach—those of you like myself will want to visit where we younger people go—to the mansions and the retirement facilities where they pay \$1 million. What has happened is that the unemployment rate has dropped substantially, even though a lot of the jobs are hamburger flipping jobs or service jobs. But people are employed. Many people are employed in those industries.

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2.20 p.m.

How many of us own property in Florida; unless you are afraid to go to the committee that investigates parliamentarians? There are many of us who own property. You do not have to go to anyone to get permission to buy a home. You can go to a real estate agent and buy whatever you want, once you have the money. These states flourish on investment coming from Latin America and people like many of us in Trinidad and Tobago, who will not admit that we own properties. You do not have to apply to a Minister for a licence, you can buy West Palm Beach if you wish. I understand a very famous preacher came here, he has a mansion in West Palm Beach and a \$80,000 Mercedes Benz or BMW and a \$3.5 billion empire, gained by casting our voodoo.

What I am saying is, when are we going to develop this mentality—get out of our system of this colonial mentality that someone wants to take away our country? That mentality does not exist on the street, I assure you. The people on the streets there want work. The people on the street would like to see that most beautiful coast of Manzanilla and Mayaro developed in such a way, that it promotes eco-tourism, hotel development, recreational activities and all the things that go towards making a very stable tourism structure. We have to pass laws—one acre, half an acre, one lot, otherwise the white people will come and take over the country. That is the fear. You all must admit it.

In this international marketplace, we should have no fear; we must have rules. That is what we must have. When you get up in this Parliament and you speak and it appears on the Internet—tonight the reporters are going to report what many of you have said on the Internet. When they hear legislators making these statements, expressing such fear of take-over—of people coming to take over their little island and so forth, and this paranoia that has been set, it is an inheritance of PNM backwardness [*Desk thumping*] When many of you were not in the PNM I was around and I knew and experienced that phobia. They went ahead and nationalized everything in Trinidad and Tobago so that they could be in control. You know what we are fighting today in this Government? It is a great pity that I am only here as a visitor, so I cannot speak with the full venom that I would like to. You know what is your problem, those on the Front Bench there? You created the problem and now you have to deal with it. You went across this country creating a dependency syndrome that, in order to get a job as a bus conductor you have to be a PNM. In order to get InnCogen you have to come up with a feasibility study my dear fellow [*Desk thumping*] and you have to get international financial

institutions supporting such a feasibility study. People are not going to invest their money like that.

What you are complaining about today, in a few years you will say “Blessed be the United National Congress” [*Desk thumping*] for they have taken you out of bondage into the land of liberty. But, you are too short-sighted. You created a situation for almost 30 years. I will give you some credit. Do not misunderstand me. You have to give Montano some credit for setting up Point Lisas, not the PNM—I do not know if he is related to Sen. Montano. The vision of the South Chamber was not a PNM thing. It was the vision of Robert Montano to build a port and an industrial estate—in fact they sold shares, and there are few people in Couva who own shares—which subsequently went into a state-owned thing but I think there are still private partners there; to build something for those of us who were rejected in San Fernando, all of which, Sen. Shabazz, were intended to encourage foreign investors—in case your Standing Orders are misleading you right now.

Even under the PNM, with all its ills, there was a policy, because private enterprise would not put out the money for those giant industries. With the long term funds available at the time of plenty, the Government of the day—and I am giving you credit—decided that they were going to put some money into industrialization which they will ultimately divest. That was a good plan. You know what happened subsequently?

Subsequently, mismanagement entered the picture and what we are doing today as a Government—what we are doing today in Trinidad and Tobago is preparing the country for less and less government. The same people who talked about overwhelming government are also talking about less and less government. The same people who are talking about “let us get rid of this pernicious tax system and let us have across-the-board system” are also complaining—everything you do, they complain. You are in government for three years—no government, in the history of this country in three years, has achieved as much as the United National Congress. [*Desk thumping*] The evidence is there, I am not on the platform. If you see me on the platform you know what will happen. I will be speaking in much more glowing terms. I am trying to tell you, that you have to develop the psychology to face the future.

One of my gurus in this matter is Sen. Philip Marshall. I must admit, he teaches me very often and at times reprimands me. But, I want to tell you, let us focus on the future. Let us stop worrying about the taboos. Let us stop worrying about who is coming to get an acre of land here and there. Let us open this

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country. Let people who want to retire in this country come and retire and bring their money with them. What are you afraid of? You have rules. We should create situations where developers can come into this country and build retirement homes so that those people who have their millions and billions of dollars, who are looking for a place in the sun, can come here, rather than all this backwardness about foreigners coming to takeover Trinidad and Tobago. We have passed that stage. In those introductory remarks, I just wanted to make some general remarks.

Right now we are talking about demonopolization of NP and the question I was asking my goodly friend in the Cabinet, hon. Mervyn Assam was that, in the whole process of demonopolization, whether companies like Petrotrin would become involved in the retail market? Because we want to make sure that we just do not see Shell, Texaco and BP signs here and the value added to the gas that we produce at Petrotrin—and sometimes at a loss—will be passed on to them. We want to give them an opportunity to come and invest.

2.30 p.m.

Demonopolization does not mean giving away the National Petroleum Marketing Company Limited to foreigners. Demonopolization assumes that Petrotrin will also be able to fly its flag so that when I have to choose between gas stations, I will buy the best gasoline available in the Western Hemisphere produced by Petrotrin, Pointe-a-Pierre. So, we shall make a share of the profit and for those who believe that demonopolization simply means giving away to foreigners the National Petroleum Marketing Company Limited, they are totally wrong about it.

It is a well-known fact that discussions did not start with Minister Assam and Minister Gangar; it started with Patrick Manning and Trevor Bhoopsingh; it started with the former Minister of Energy and Energy Industries, Barry Barnes, about finding a partner for the refinery, because the refinery business is an extremely delicate business. It deals with margins and if you do not run an efficacious operation, you are going to find yourself spending more money on energy utilization and, therefore, reducing your margins considerably.

So, we are open to all kinds of suggestions; no firm agreement has been reached. But, what is wrong in finding a partner for Petrotrin? What is wrong in finding a foreign partner who is prepared to come to invest a few hundred million dollars to put up a plant and further upgrade what we have, so that we can get even higher end products which can sell at higher prices because we cannot afford it?

We just spent US \$350 million on upgrading that refinery and we are not yet at the cutting edge of technology. We are not even close to the modern refineries of the world. We hear all kinds of small-minded talk about foreign investment.

I just opened up the discussion a bit, so you can understand the need for foreign investment. We have opened up the market for local investment and I am an expert in the business, Sir. What we have been able to do, when the country had a Minister of Energy and Energy-Based Industries in 1987—

Sen. Mohammed: I wonder who was that Minister?

Sen. K. Ramnath: No, I am talking about 1998—was to have encouraged local entrepreneurs like Charlie Brash, a whole host of fellows in San Fernando, Lennox Persad and all these people to have gone into investment in the oil industry by acquiring, through leases, certain fields that were uneconomic for us to produce because of our high overheads and lifting costs. Today, these independents are producing a substantial portion of the oil on land.

In fact, the model has been so good—I cannot speak for Petrotrin because I am a low level employee there and you know nowadays, the party does not protect you; it is not the PNM in power, so I have to be careful—that we have gone to the point now where we are talking about production-sharing agreements where contractors can now operate certain fields that we had been operating and we can share in the profits. Novel attempts have been introduced in the oil industry so that local entrepreneurs can become part of the oil business. It will not convey that we give foreign operatorships. They are doing very well. Unfortunately, with the drop in oil prices, they have had some setbacks.

I would like to see even further concessions. Minister Assam is not the Minister of Finance—

Mr. Assam: I do not want any more crucifixion.

Sen. K. Ramnath:—and I know he has no connection as Minister of Finance, and I have known him for a very long time, too, but since we respect collective responsibility, we support our current Minister, but we would like to have further concessions made for the people who operate the stripper fields and who contribute significantly to the development of Trinidad and Tobago, not only in terms of taxes, but mainly in terms of providing employment for our citizens.

Let us look at the big picture, which is not about half acre of land, one acre of land, five acres of land, but about creating employment for a people out there, an ambitious, educated population, crying out for help.

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On the one hand, we boast about how well we are spending money in producing graduates from technical schools, from the dental school, from the university and then we forget to think that we have to find a place for them. I have under my purview now, about six students from the former Prof. Julian Kenny's group, doing Master's Degrees in environmental sciences because they cannot find work. Where they think they will find work is by acquiring further qualifications. There are a number of people there and we are trying to create opportunities. We have a number of environmental firms which we are encouraging to come to Trinidad and Tobago.

I hope Professor, through you Mr. President, that we will remove the leg. I hope that one day we will get the Environmental Management Authority to follow its mandate; I hope one of these days the Environmental Management Authority will understand what its real mandate is, rather than copying a set of laws from outside and trying to implement them, paying a set of high salaries and renting expensive properties. I asked them why they did not take one of the houses along the Magnificent Seven there, refurbish it and make it into a museum.

But, if we are bringing laboratories into the country and if we are bringing money into the country to set up environmental companies, we should encourage them. Giving them the opportunity to buy some land should not be a major issue.

Sen. Daly spoke about foreign exchange leakages and so forth. I do not understand the ramifications of this whole exercise, but I feel certain if I were in the Government that if we had a foreign exchange cash crunch in the country, that a wise government which, as you know, is synonymous with the United National Congress—[*Desk thumping*]

Sen. Mohammed: Joke of the year!

Sen. K. Ramnath:—will clearly look at its priorities to determine where our foreign exchange will go. I would like to disabuse his mind that a responsible government will let money go in the way he suggested it might go, in preference to buying medicines and food for the people of Trinidad and Tobago. I feel so. Mr. Assam might be able to answer that question.

There is a company called Nucor—I do not think it has shut down yet—and I was very sympathetic when the PNM government gave Nucor a special concession for the National Gas Company. In fact, there were many criticisms because Nucor was buying gas at a price less than, and the reason for that was to test the technology that was, for the first time, commercialized in Trinidad and Tobago.

As responsible people, we of the Opposition at that time, Minister Assam, did not make any noise about it. We said if they were coming to put in so many hundred million dollars to produce iron carbide as a substitute for scrap which, at the time, was selling at a high price and that was the technology that was piloted and was going to work and we can now put in a second and third train and renegotiate prices of gas for the second and third train, that was a good thing, but Sen. Shabazz will not give us credit for that when we supported it. There are times that you have to support it.

So, I have my views about the National Gas Company which I cannot express here, having belonged to a disciplined organization where we discuss matters like these in caucus. [*Desk thumping*]

Sen. Mohammed: Express your views.

Sen. K. Ramnath: But I have my views about organizations performing—buying, selling and regulatory functions—in the same way I have my views about the Environmental Management Authority making the rules and not enforcing the rules. I think the lawyers will tell you there should be some kind of dichotomy, or what is the phrase “separation of powers” and so forth.

I asked the Minister in private with respect to the point made here about the role of the National Gas Company and Tidco and I did receive satisfactory explanation, which is that the National Gas Company will continue its co-business which is the buying, selling and transmission of gas, because it could not be left up to a foreign investor to come and run lines for you if you wanted a gas line run from Point Lisas to the university, or to some factory, or something of the sort. I am quite sure there can be a contract, but in terms of the security of supply of energy, for the time being, the National Gas Company will have that power until that changes, and Tidco, I am told, will no longer get involved in any further investment. Whatever they are involved in, they will remain there.

That is an attempt to assure others that they will not be in competition; that we are not going to ask you to come into Trinidad and Tobago, bring your money in and then we will try to compete against you using leverage of the state. That is for those who have a concern about that.

I also talk about a matter which was raised about foreign investment. For every licence issued by the Ministry of Energy and Energy Resources and, ultimately, by the President, there is a proviso that a certain amount of money is allocated for educational, infrastructural and other social projects. It happened under the PNM; it happened under the National Alliance for Reconstruction and it

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is happening under the UNC—skills centres, roads, schools. I am not privy. I was asking Sen. Tota-Maharaj about it and she is going to provide me with further information.

But, millions of dollars are received from Enron, Texaco, British Gas, Amoco and the companies that receive these concessions, after they have paid signature bonuses and that money is then channelled into social projects and I think it is well-documented. I was the beneficiary of one of several courses—

Sen. Mohammed: Under the PNM.

Sen. K. Ramnath:—in the South East Coast Consortium and several programmes of going abroad. Many of our conversions to 3D seismic were done as part of that whole process. In fact, some of our 3D seismic surveys on land were done as a result of grants that we have been able to get out of these companies that have acquired blocs.

The trouble is that many people do not know these things and I must reprimand even some of my colleagues for not really blowing their trumpets. They are too modest; they should be talking about it so that the people will understand that the PNM is simply a bunch of complainers and not recognizing the work that we have been doing in these three short years.

Could you imagine when we would have completed that airport, Mr. Vice-President, a modern airport where people no longer have to climb, where there is no provision for the disabled, where there can be these airbridges that take you straight into the airport, where dignitaries and investors coming into this country can say, “I have landed in a first world country”, and their concern is corruption.

2.45 p.m.

They have not been able, through the institutions of the state, to demonstrate one iota of corruption. Nothing! And you know what is very—I do not think the word “hypocritical” is a parliamentary word—unusual, is that when some of the very people who are involved in the airport were in their party, campaigning, managing and getting contracts, they said nothing; they never lifted a finger. But because they lost their very good campaigners and supporters to a progressive organization, “bad mind” has now allowed them to attack.

You know, if I were in the position of my hon. friend Sadiq Baksh—he is honestly a Superman—[*Desk thumping*—when I think of how he maintains his

calm, serenity and peace in the face of all these adversaries—attacks on his integrity. No evidence! Not an iota of evidence.

I remember, my good friend, Kamaluddin Mohammed—who was a victim of my wrath, at times—used to say “Mr. Speaker, we should pass a rule to lock up people, when they “bad talk” you in politics”. But we do not intend to do that.

We are going to build that airport, and it shall grieve them when they see it. There shall be weeping and gnashing of teeth, when they see that we have transformed this society into one that can really enter the international marketplace. You know, it is a shame to come through Piarco—the Piarco that they built. You try to stand up in the line to get to American Airlines—

Sen. Mohammed: What happen to BWIA?

Sen. K. Ramnath: I travel with American Airlines. Did you not sell out BWIA—give it away? There is not a place to sit down in that airport. We want to invite foreign investors into this country and they must land at Piarco. Do you know how long it takes to get a suitcase on that conveyor belt? And you will say, “The UNC is in power and in three years they should have re-built the airport and put up carousels, and so on”. We must do all of that in three years.

We tried to reform the public service in this country, but they are like “jack spanias” all over you, at every level in the society. I am waiting for that Bill, you know, when it comes. I hope you all lobby for me to be here, on that occasion. [Laughter] [Desk thumping]

Sen. Mohammed: He is working for that ten days.

Sen. K. Ramnath: The point I am making is, to seriously attract serious people with money—to create employment, to make money for themselves, you must have the physical and economic environment to do so. That is what we are doing. It is going to take some time.

There will be all kinds of people. I was in Guyana recently, I was there before President Jagan died. A certain company was given a big contract there to build a road from the airport into the city, and they used to call the company “never happen” and all kinds of things. Do you know the owner of that company has been making all the noises in Trinidad, when he did not get the job at the airport? I do not call names.

Sen. Daly: “He lies”? [Laughter]

Sen. K. Ramnath: Up to today, they have not finished the work in Guyana. The situation is so bad. And you know, I read in the papers that the chief protagonist, head of some kind of association of business people, and so on, is complaining about the airport.

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

Sen. Daly: Maybe, it will be appropriate that we should apply to the Independent Bench. [*Laughter*]

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

Question put and agreed to.

Sen. John: Could the Member give way? Just to clarify a part of your submission, a while ago. It does not seem to be correct to suggest that the PNM did not establish Point Lisas. We heard three Members of the Opposition in this Senate say that the PNM established it. Maybe you are wrong.

Sen. K. Ramnath: Well, I trust that I will be supported by Sen. Montano. [*Laughter*] It was not the PNM, Sir; it was the Southern Chamber. I shall be coming to an end, very shortly.

I was making the point about the vision, the policy, the objectives, the strategy—as so ably outlined in managerial terms by Sen. Montano, on the last occasion. Then you shall see the whole picture: a government that intends to transform the economy, so that it can find its place in the global marketplace—I do not like to use the words “new millennium”, I think it is getting a little “cliché tired”. I am a little concerned about the Y2K problem, with our plants in Pointe-a-Pierre.

Seriously, we are not going to compete; nobody is going to take us seriously; and all of the talk—including that from the Government Benches—that people prefer to invest in Trinidad than in Chile or in Venezuela, could be very temporary. It could be as a result of certain political developments in Venezuela, in Chile and elsewhere, where gas, at one time, was sold at fifty cents—and we pay a dollar and ten cents, here—but fortunately, because of our political climate, because of our geography, and so on, for the time being, we are getting that advantage. But the time will come when investors will go, they will take the risk and go. That is why we have to be in the forefront, and we have to demonstrate to the world that this is a serious country, with a serious Government, serious people, happy people, respectful people, people with dignity and decorum, who are prepared to have you here, but also ensure that you follow the rules of the society.

We want a seaport, second to none; we want an airport, second to none; we want legislation that will facilitate foreign investment; we want attitudes, particularly emanating at the level of the Parliament, to suggest that we want you.

2.55 p.m.

I think it is the most irresponsible thing for a member of the Opposition to stand up on a public platform and say we will not honour the InnCogen deal. It is the most irresponsible thing to do. It is creating unnecessary anxiety and nervousness in the international community. What if the NAR, after 33-3 had said, “We are not going to honour a lot of the things that the PNM did”? With that margin they could have done almost anything—changed the Constitution completely. What happens if the UNC says, “We are not going to honour certain obligations that the PNM entered into”? But you have members of the former government standing up in public, without any evidence, and saying, “We are not going to honour.”

You know, we are talking right now about a cogeneration plant at Petrotrin and we have one of the best justifications for cogeneration. We used to have our own generator plants, but they are all too old now, to produce all the energy requirements that Petrotrin requires, which are very high, in addition to which new plants are going to come into our compound because we are demolishing and decommissioning a lot of old plants so we can put up our own cogeneration plant and sell excess power to T&TEC if the demand is there.

We cannot do like you who waited until this country was in chaos before you brought in Rolls Royce and these people, whoever built the plant in Point Lisas, and while you were supplying energy to Point Lisas the rest of the country was in perpetual darkness. We plan ahead. There will be times—this economic downturn will not last forever. It is very cyclical. We know that. Oil prices are beginning to creep again and it will go back up and all the other energy commodities will follow oil prices as you know. So we are going to go back in. It does not really matter whether oil prices or gas prices increase next year, we shall win by an overwhelming majority anyway. Thank you very much.

Sen. Prof. John Spence: Mr. Vice-President, I think if we look at the title of the Bill, “Investment Promotion”, particularly as it explores the energy sector, there could be no doubt about the importance of the intent, because I think, as the previous speaker has pointed out, one of our perennial problems is that we still depend, after all these years with all the efforts with all the talk, on the energy

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sector for our well-being. If we cannot lick this one, then I really do not see us making any sustained and substantial progress. There is no doubt about the importance of that subject. I imagine it is a matter that is going to come up again in Dr. St. Cyr's motion on the economy. But it is a problem that we do not seem to be able to master.

There is both the foreign investment and the local investment. We talk about the savings rate and we have never had a savings rate. I have often found this really not to be addressing the central difficulty. Because when our savings rate increases, when we have great liquidity, we do not invest it, we just spend it on consumer goods and put debts in the foreign exchange. Government has then to increase the reserve requirement and take money out of the system. So clearly that is a problem which we have not yet been able to lick. I do not myself see provisions in this bill, in spite of its title, that will substantially and meaningfully address that issue. Yet this really is the issue.

It seems to be that largely what we are doing in this bill is to assist the foreign investor by perhaps making his process hopefully a little less bureaucratic. Although even in that it seems to me that it hardly succeeds because, although TIDCO will provide certain services by way of information, it seems to me now that the process of approval will still be the same, and unless one can remove the bureaucracy from those processes, we really have gained nothing by this Bill.

This is frustrated by the argument put forward by Sen. Daly that a number of the clauses in this Bill need not have come to Parliament as legislation. They could have been administrative acts which would easily have covered most of the processes that are outlined here. So I suppose the most substantial changes are the ones that Sen. Daly referred to. So it seems to be unfortunate that we have this Bill which really I do not think is going to change much as far as Trinidad is concerned with respect to investments.

I think the real issue is that we have never been and still are not a nation of producers. We are still a nation of traders and somehow we cannot beat that one. So it seems to me if we are really interested in promoting local investment, that is the issue that has to be tackled. Certainly we are not trying to do that in this Bill. The Minister in his presentation has mentioned a number of proposed investments. I presume that these are mainly foreign investments that he is referring to and one would hope that these, in fact, come on stream.

It seems to me that we should set some targets and instead of just having them presented to us in this way during the debate, we could set some targets and, as has been pointed out, have some method of measuring whether the targets have been achieved, both for the individual investments and for the total investments.

I find myself getting more and more depressed about the agricultural sector. I know that the hon. Minister has said that we will get the investments in that sector from the hon. Minister of Agriculture, Land and Marine Resources rather than from himself in this presentation. But whereas I accept that tourism is important and that we must enhance our investments and therefore our production in that service sector, it seems to me that we ignore the possibility of developing the agricultural sector as well at our peril.

The tourism sector again, like the energy sector, may turn out to be a fickle sector. That is a sector that can increase and decrease at the whims of the tourists, particularly in North America, and we now have some European tourists as well. In that regard I am particularly concerned about Tobago, because my fear has always been that, in Tobago, the very aspect of the environment that makes it attractive to tourists could soon be destroyed. From my point of view it has already been destroyed in the southwest of the island and that could easily happen to the rest of the country.

Most of the visitors that you speak to in Tobago, what they find particularly different with respect to tourism in Tobago than Aruba or Barbados or the other countries, is the fact that there is still an "undeveloped" island that does not have the obvious tourism hotels and so on that some of these other countries have. So that we could very easily destroy the attractiveness of that island and therefore find that the tourism industry which has developed declines rapidly.

I have no doubt that if I were a tourist in Miami or in some part of the United States, the attractiveness, if it were just a matter of beach, sea and sand, the attractiveness of the Bahamas, Cuba when it develops, when it opens up, Barbados even, Antigua, with very beautiful beaches, would far outweigh the attractiveness of Tobago. But what I would not get in those other areas is a country in which the sort of development that occurred in other parts of the Caribbean areas have not yet occurred. We still have tropical forests that can be used to attract a certain type of tourist which the other countries might not attract.

In that regard, therefore, it seems to me that the clauses that we set up must take account of that situation in Tobago, but particularly have some mechanism for allowing the people in Tobago themselves to have as large a say as possible in

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this sort of development. Let us be fair. Much of the development that has taken place for the local points in Tobago came from persons who live in Trinidad and therefore they, in fact, will not have to suffer the discomforts which the persons who live in Tobago will have to suffer if the development does not take place in the right way. Even though I accept that we are one country, and I accept that we cannot have separate laws for Tobago, it seems to me that we must somehow develop a mechanism whereby the people whose feet the shoe will pinch will have a say in what sort of shoe they would put on.

In addition to that, we have already passed the Tobago House of Assembly Bill. Now I sat in the select committee which dealt with the Tobago House of Assembly Bill, on which some other persons here in the Senate also sat. I think if I had to start from scratch I would not, in fact, have set up a Tobago House of Assembly in the way that the original Act was set up. Having taken that first step, then I think the next step of changing the provisions in that Act along the lines that we did was a natural development.

It seems to me extremely sad that we sat and discussed that Bill and it was clear to me that many of the persons on that select committee, and therefore in the Government as well, although they were passing tourism in that bill, were not really convinced that that was the way that we should go, and therefore one is continuously fighting a rearguard action to ensure that subsequent bits of legislation that are passed, are passed not only in the law but in the spirit of that Act.

It is in accordance with that that I have suggested an amendment to this particular Bill which would allow a greater say in the acquisition of land to the people in Tobago. I come from a small island myself. I was born in St. Vincent, but I am a Trinidad and Tobago citizen. I have no other citizenship. I have had that citizenship for many years now. I do not have any connections in St. Vincent but that first 10 years of my life made me have some appreciation for what it is like to live in a small island. To Vincentians, Trinidad and Tobago is a big island, and I have no doubt that to Tobagonians, Trinidad is also a big island. It is a different outlook really.

It is clear to me that it is very easy to disturb the culture, the environment, the natural environment and the social environment if we do not plan the development of tourism in Tobago very carefully. For the last five or six years I have been trying to get a study going in Tobago on this particular issue, to ask the

ordinary person in Tobago, by way of a survey, just what they would like to see with respect to development. Of course, a lot has been said about the change in the employment situation; and perhaps it is that the people in Tobago would prefer the change to be in the service industry provided there are jobs to go with hotels and travel tours and so on rather than the sort of life that they now live. I think the people in Tobago must say that, rather than it being decided at a more central level in Trinidad and Tobago.

3.10 p.m.

My amendment which I have circulated and would now like to propose formally is as follows:

"(i) Insert a new clause 19 as follows:

'Where the land to be acquired is located in Tobago, approval of the Tobago House of Assembly will be required.'

Then, of course, the subsequent clauses would have to be renumbered. I hope that those who have spoken already would have an opportunity to speak again on this particular amendment.

Seconded by Sen. Diana Mahabir-Wyatt.

Mr. Vice-President: There is an amendment before us and the contributions henceforth could be on the original Bill as well as the amendment; and anyone who has already spoken but wants to speak on the amendment can so do.

Sen. Prof. J. Spence: Thank you. I think this is an extremely important part of our deliberations and our decisions this afternoon. I hope that when we have finished debating Dr. St. Cyr's Motion we will get from the hon. Minister of Finance a deeper insight as to how this problem of investment promotion is to be solved.

Since the title of this Bill suggests that it is intended to promote investment, not just foreign but local as well, and the explanation suggested that both these areas would be addressed—it seems to me that if this is the solution being offered, that I would say it certainly is inadequate. Whether it would help the foreign investor by smoothing things over by, perhaps, putting more pressure on TIDCO to do the things it should be doing anyhow, and not just make this an additional stop which foreign investors would have to take, I do not know. It seems to me important that we still address the problem of local and foreign investors, and I do not think we have done that. Somehow I think we have to address it by creating entrepreneurs.

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When we had the downturn in our economy in the mid '80s, and early in the tenure of Government, the National Alliance for Reconstruction (NAR), I remembered speaking to my colleague, Dr. St. Cyr, who suggested at that time that the government should take positive action to dialogue with the manufacturing sector of Trinidad and Tobago. He suggested that we should take the 10 top manufacturers and ask them, "What do you need to increase your production by 25 per cent? What can the Government do for you that would allow you to increase your production?"

I think we still have not got that marriage between the Government and the private sector. Even though we say that Government is a facilitator and so forth, and we pass various laws, it seems to me we really have not got that marriage between what the Government sector needs to do to ensure that the private sector invests in productive enterprises. So that when our largest conglomerate invests, not in expanding production of a product which is already exported and clearly is a winner in many parts of the world, but invests in a large enterprise which can only increase consumerism— I paid a visit a couple Saturday nights ago to the Grand Bazaar and I was amazed at the number of people there on a Saturday evening visiting that bazaar, and clearly, purchasing, consuming. Could that investment not have gone into increased sale of Carib beer to various parts of the world, and so have us as producers and not consumers?

Of course, it is in keeping with our general culture that we should trade; we import and buy and sell, and we do not produce. This really is the crux of the matter, this is our problem with investments. If we were producers, the surplus money we have saved when there was greater liquidity in the system and the reserved requirement was eased, we would not be running immediately to consume, we would be first of all thinking of how we could invest and produce. But we are not doing that.

The agricultural sector, as far as I am concerned, no longer exists and what little is left is also disappearing. As I said recently in a debate, we no longer have a Faculty of Agriculture. Why do we need that, indeed? The only thing we have not been able to do is to reduce the very substantial expenditure in the Ministry of Agriculture, Land and Marine Resources of \$250 million or what have you. For what? To service an industry that does not exist? Thus, it seems to me that we are not serious about promoting investment, certainly not by the action we are taking here this afternoon.

To draw another point, before closing, that has to do with clause 7(4), in which I am advised there may be some difficulty if we pass the clause as it is written here, that is, neither TIDCO nor NGC will undertake any direct investment in Trinidad and Tobago. I am advised that NGC does, in fact, have investments in Trinidad and Tobago, and I do not know whether those would have to be given up immediately after we pass this Bill. I am also advised that it is necessary for them to undertake certain investments, for example, the laying of pipelines, if they are going to supply natural gas.

I also suggest that we have an amendment to that clause and that we should delete it. Mr. Vice-President, again, I would like to make a formal proposal for an amendment which unfortunately, has not been circulated. It is very simple, namely, that we should delete clause 7(4). Again, I do not know whether there is any support for this.

Seconded by Sen. Martin Daly.

Sen. Prof. J. Spence: Thank you, Sir. That is just by way of tidying up that particular section. The proposal with respect to Tobago is a rather fundamental one, as to how we develop, in this case, especially in Tobago. I certainly think that we still need to address our minds to how we are going to increase, particularly, local investment. I am very skeptical as to whether we would get investment into the non-oil sector in Trinidad and Tobago in any substantial way. Clearly, we get billions of dollars invested in the gas and oil sector because that is attractive to international investors.

I think the hon. Senator who spoke before me pointed out that there are many reasons, even in that sector, why people should invest in other parts of the world rather than in Trinidad and Tobago, but I certainly think that applies double-fold to the non-oil sector. In the final analysis, it seems to me that whatever we get from foreign investment we should take as an addition, that is tea in the coffee, a lagniappe. The real issue is how we use our own savings and invest them for our own productive processes. If we can use our existing savings then it becomes essential for us to just know how to increase those savings.

It seems to be very disastrous to try to increase the savings and have them just go into consumer spending, because all that does is put pressure on the foreign exchange figure. We still need to address investments, particularly in the agricultural and tourism sectors. I think it should be managed properly so that we do not kill the goose that is laying the golden egg. As I said, we need to address other service sectors which we have scarcely developed in Trinidad and Tobago.

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I remember in an earlier debate talking about the fact the we had encouraged Cable and Wireless to stay, investing in Trinidad and Tobago, instead of encouraging their rival company at the time which was British Telecom. We went out of our way, and the Government at that time actually invited Cable and Wireless to come in and bid for purchasing of a local industry. At the time I said that Barbados would go right ahead, because it is a centre that is more attractive to many companies than is Trinidad and Tobago. People like to live there, they like the culture and the atmosphere, I do not know why but they do, and of course, that is exactly what has happened with respect to telecommunication and information. Barbados is going ahead of Trinidad and Tobago. These are issues I think we need to address in the Promotion of Investment Bill.

Thank you.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, consistent with our democratic approach to governance, our commitment to meaningful participation and involvement and having regard to the various points of view and concerns expressed during the course of the debate so far, the Government will, at this time, want to have this debate on an Act to provide for the Promotion of Investment in Trinidad and Tobago and for the repeal of the Foreign Investment Act 1990, adjourned to the next sitting of the Senate.

Sen. Prof. Spence: I think the next sitting would, in fact, be Private Members' Day, so I assume it is the next one after that.

Sen. The Hon. W. Mark: That is a normal procedural approach.

Question put and agreed to.

Mr. Vice-President: We will now be proceeding with Bills Nos. 1 and 2 on the Order Paper.

3.25 p.m.

**HUMAN REPRODUCTIVE AND GENETIC
TECHNOLOGIES BILL**

Order for second reading read.

The Minister of Health: (Dr. The Hon. Hamza Rafeeq): Mr. Vice-President, I beg to move,

That a Bill respecting human reproductive technologies and commercial transactions relating to human reproduction be now read a second time.

Mr. Vice-President, with regard to the bill dealing with the issue of tissue transplantation, the enactment of this Bill into law would fulfill a long standing need and realize an overdue measure of benefit for many of our citizens. There are many people in our population who suffer from diseases of the kidneys, eyes, and other organs, whose lives or vital functions can be saved or restored by the process of transplantation of organs from one individual to another.

Transplantation of regenerative and non-generative tissues from living persons and all organs and tissues from cadavers has been a well-established technique in the medical arsenal worldwide for some time and has saved the lives of many people. But Trinidad and Tobago so far, has not had clear policies and legal regulations that govern the application of this important set of procedures. While the procedures are of great value to the recipients of the transplanted tissue, they do carry serious risks of abuse and commercial exploitation of the poorer population and as such, raise serious ethical issues. Therefore, Mr. Vice-President, the overarching purpose of this Bill is to ensure that the full benefits of the tissue transplant technology are available to the citizens of Trinidad and Tobago in a safe, ethical, dignified manner.

Mr. Vice-President, the origins of this Bill date as far back as 1986, when the Cabinet agreed to request the Attorney General and the Minister of Legal Affairs to arrange for the drafting of a legislation on brain death and on the use of cadavers. Over the years, various drafts of that legislation changed their focus and today we have a Bill that is related to the original issue but is in fact, quite different in intent and content. Some matters relevant to that question of determining brain death will be dealt with under regulations to be prescribed following passage of the Bill. We are currently engaged (this is the Ministry of Health) in the development of a policy on both the determination and the management of brain death. But the Bill under consideration, Mr. Vice-President, has to do with saving lives—of those who need a tissue transplant e.g. bone marrow transplant or a blood transfusion or those who could be saved by an organ or tissue that is harvested from a cadaver.

Mr. Vice-President, the drafting of this Bill has not been easy, partly due to the technical complexities and moral and ethical issues involved and partly due to the changes in focus that it underwent during the process.

I will now give a brief description of the major provisions of the Bill. The Bill seeks to provide for the removal of human tissue and blood from living donors and tissue and organs from human cadavers—both for the specific purpose of

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transplantation or transfusion, in the case of blood, within strict rules and guidelines. The rules and guidelines would protect the donors' safety, dignity and rights by necessitating certification by medical practitioners as well as informed consent by the appropriate individuals.

The Bill provides for the appointment of designated officers in each hospital, by the Medical Chief of Staff of the hospital or the Chief Medical Officer with the approval of the Minister of Health.

Informed consent by an adult of sound mind in the presence of a designated officer and the certification by the designated officer to the compliance of the requirements of the Bill would give a medical practitioner sufficient authority to remove regenerative or non-regenerative tissue for therapeutic or scientific purposes.

As regards minors, that is those who have not attained the age of 18 years, the Bill would prohibit the removal of non-regenerative tissue from minors altogether. It allows the removal of regenerative tissue for the specific purpose of transplantation to a relative, if the minor has the capacity to understand the implications of such removal and has been advised about these by a medical officer other than the one who is to perform the procedure. In such cases, the minor's agreement, the informed consent of a parent of the minor and the certification by the designated officer would be necessary. In the case of minors who are too young to understand the consequences of the removal of regenerative tissue from their body, the Bill restricts the procedure to cases where the tissue would save the life of a brother, sister or parent of the minor. Once again, the informed consent of a parent and the certification by the designated officer will be necessary. In addition, a medical officer other than the one who is to perform the procedure must certify that the sibling or parent of the minor would die in the absence of the transplant.

So Mr. Vice-President, the conditions under which even regenerative tissue (including bone marrow) can be removed from minors would be very stringent.

With regard to removal of blood, the conditions are less stringent, both for adults and minors. In the case of adults of sound mind, informed consent is all that would be required and in the case of minors, medical advice that removal of the blood would not be prejudicial to the health of the minor and parental consent would be necessary.

The Bill also provides for emergency blood transfusions with or without consent in order to save the life of a patient, except if it is contrary to a patient's religious belief.

As far as the removal of tissue or organs from a dead body is concerned, the Bill requires the authorization of a designated officer, and stipulates the circumstances under which he/she could make such authorization.

The Bill allows such harvesting of tissue or organs for purposes of transplantation and other therapeutic, medical or scientific purposes. The designated officer is required to make reasonable inquiries and determine that the deceased had, during his/her life, consented to (or expressed a wish for) such removal of organs. The harvesting of tissues or organs from the body of a deceased could also be authorized if agreed to by the nearest relative and the deceased had never, during his or her life time objected to it.

The Bill also specifically prohibits the harvesting of any tissues or organs before death occurs. It is in the context of this particular part of the Bill that it relates to the circumstances of brain death. The Bill clearly prescribes criteria for the determination of death or brain death, which is to be certified by two medical practitioners on the staff of the relevant hospital.

The Bill also seeks to prevent conflict of interest by prohibiting the medical officers who determined the fact of death from participating in the removal or the transplantation. There is also a stipulation for the consent of the Coroner, where there is reason to believe that the Coroner has jurisdiction over the circumstances leading to the death.

The Bill also explicitly and summarily prohibits the trade of human tissue or blood including the advertising of such transactions, making such acts a criminal offence.

Finally, the Bill contains the necessary provisions for exemptions from liability, limitations of applicability and so on.

As you would realize, every provision in the Bill is either aimed at protecting the donor's rights and health or at ensuring the ethical values of human dignity and respect, while permitting the technology to benefit the health of the recipient. Every effort has been made to be comprehensive. Wherever a question may arise about the propriety of a procedure, the Bill errs on the side of caution. In cases of a possible conflict between the health and right of the donor and those of the potential recipient of a tissue or organ, the former takes precedence.

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It is clear that, as I have mentioned, this Bill raises serious moral, legal and ethical questions. It has taken some 13 years for this Bill to be brought before this Parliament. We have sought to address as many of the issues as possible. However I know that there will still be a lot of questions, queries and suggestions for improvement. Later on in the proceedings we will be proposing a mechanism for further deliberations on this Bill. However we feel that the enactment of this piece of legislation can be of tremendous benefit to the population by saving lives and restoring vital functions to man by persons. We feel therefore that it deserves our immediate attention.

Mr. Vice-President, as regards the Human Reproductive and Genetic Technologies Bill, this Bill is an important step towards the protection of moral, social and ethical fabrics of our society, the preservation of respect for human life and the prevention of the abuse of the technologies under the ambit of the proposed Bill. The issue goes to the heart of our value systems and beliefs on the one hand and our desire to be at the cutting edge of technology on the other.

I am sure that hon. Members of this House are aware of some of the international developments in the area of genetic and reproductive technology—ranging from “test-tube babies” to cloning. Such technology ranges from what may be considered to be “genetic engineering” to what may alter the reproductive choices that individuals make.

3.35 p.m.

Of course, while the field of reproductive genetic research quietly makes progress, we only hear about what the media may consider a major breakthrough—such as the cloning of a sheep.

What this Bill covers, however, includes simpler procedures such as tests performed on expectant mothers with a view to predicting the gender of an unborn child. While the technologies offer a remarkable potential for medical benefit to humanity, they carry considerable risk of abuse in the hands of reckless individuals who may only be interested in the commercial benefits that could accrue. Therein lies the great dilemma: Where do we draw the line between the acceptable and the abhorrent?

On the one extreme, there are scientists who argue that scientific research should be totally unfettered in the interest of progress irrespective of moral reservations of some people. These zealous proponents of science believe that while every scientific advance may carry some downside risks, an effort to control

or regulate research is a retrograde step, as it is likely to stifle the future health benefits that could come from successful research. They may also point out, and legitimately so, that any attempts to ban certain types of research is only likely to drive them underground, which could be more damaging than the situation that might obtain with an open policy of allowing the research with reasonable systems of monitoring in place.

Finally, in their judgment, all that matters is the practical facts of whether the potential benefits outweigh due risks, and it is an overkill and unnecessary to ban scientific research for fears of ethical nature or concerns of human dignity as these could be dealt with otherwise. Therefore, people who believe in this line of thinking would essentially argue that no control whatsoever on reproductive, or human, or genetic research and technology development should be placed.

On the other side of the spectrum, we have people who put the inherent sanctity of human life over and above any scientific progress that could possibly come out of such research. They perhaps consider any research on human embryo or the genetic make-up of a human being as tampering with the sacred basis of creation, and as abominable. They may also have pragmatic concerns about the possible side effects of such research and the risk of abuse by unscrupulous individuals for profit. Essentially, they may oppose any genetic or embryonic research at all, even if there is a demonstrated health benefit; because in their value judgment, the risk of denigration of respect for human life far outweighs the benefits. Certainly, they would give precedence to their highly sensitive value systems and belief systems about creation, human life and its sanctity over the importance of scientific freedom. They may even invoke religious and moral grounds why any technology that interferes with or offends any individual's religious or moral sensibilities ought not be permitted at all.

Between these two extreme points of view, we have a varying mix of perspectives, most of which would carry a certain element of ambivalence about it: about what is permissible and what should be banned. Such ambivalence is understandable because the answers to these questions surrounding genetic and reproductive research in a modern context are not easy. The prospects, that copies of human beings could be made in a laboratory, or in their genetic composition artificially altered by human intervention, were never really so real as they are today.

Each of us may have a different opinion, based on our own individual and moral value systems and our beliefs about the creation and preservation of human

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life. The tension between the desire for scientific progress and the sanctity of belief systems is unlikely to end. How then should a country deal with this matter? How could we ensure a balance between these diametrically opposite viewpoints? What should be the fundamental principles governing our policy? Our approach is that we put the welfare of our people and the human dignity as the two overriding and uncompromising principles in determining our policy. We cannot reasonably take the extreme view supporting uncontrolled research, nor could we take the other position that completely bans all genetic or reproductive research.

What we must do, however, is to ensure that the basic principles of human dignity, and the welfare of our population are scrupulously upheld while conducting any research leading to the development of genetic or reproductive technologies, or while making such technologies available for use in this country. What we must also do, by extension, is ensure that any conduct of such research or any practical application of such technologies is free from commercial exploitation, ethical malpractice, legal ambiguity or scientific irresponsibility. It is against this background that this Bill is being introduced today.

We recognize that the current state of the genetic or reproductive technology in Trinidad and Tobago may not be so advanced as to carry a strong potential to offend human dignity, or engender that kind of abuse that technologies available elsewhere might risk. The Bill deals with possible research activities or technologies or their commercial application, if and when they may become available in this country, in addition to those which may already be available here.

Clearly, in the context of modern day globalization of economies and the rapidly developing networks and advanced communication technologies, it would not take very long for a scientific technique to spread from one place to the next. Therefore, we do not believe that the current absence of a particular technology in Trinidad and Tobago is reason enough to postpone legislation that would prevent its potential abuse.

The Bill seeks to do four things: Firstly, prohibit certain types of genetic and reproductive research or technologies, which might denigrate the human embryo or foetus or offend the sensibilities related to the sanctity of the natural process of creation.

Secondly, to establish legal boundaries on the sale and purchase of reproductive materials, and of reproductive services banning what is clearly disrespectful of human beings, including the human embryo or foetus, and

protecting the poorer and underprivileged segments of the population from exploitation and in the interest of people's health, in particular, the women's health and well-being.

Thirdly, to protect the rights and dignity of couples whose reproductive material may be the object of research, in terms of respecting their right to consent or decline such use.

Fourthly, to make the contravention of the provisions of the Bill a punishable offence.

More specifically, the Bill seeks to prohibit:

- the cloning of human beings;
- the cross-breeding of humans and animals;
- the implantation of human embryos in animals and vice versa;
- genetic alterations of human ova, sperm, zygotes and embryos;
- the retrieval of ova or sperm from fetuses or cadavers for reproductive purposes;
- medical procedures designed to increase the probability that a future child would be of a particular gender;
- diagnostic procedures, other than ultrasonography, to determine the sex of an unborn child;
- the maintenance of an embryo outside the human body;
- the fertilization of ova outside the human body for purposes of research;
- the implantation in a woman of an ovum of another woman or of a zygote or embryo produced from the ovum of another woman;
- acting as surrogate mothers or engaging in commercial transactions in relation to such activities;
- the sale, purchase, barter, exchange of ovum, sperm, zygote, embryo or foetus.
- the use of ova or sperm for research or reproductive purposes without the consent of their donors—except for purposes of identification or prosecution in relation to a criminal offence.

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The Bill would also seek to prohibit the making of an offer to carry out, and the offering of consideration to a person to carry out any of the above-mentioned acts.

Mr. Vice-President, just as in the case of the Human Tissue Transplant Bill, this Bill also raises, as I have mentioned, serious legal, moral and ethical issues.

In this case, as in the case of the Human Tissue Transplant Bill, we would like to propose, at the appropriate time, a mechanism for consideration of this Bill.

I beg to move.

Question proposed.

3.45 p.m.

Sen. Danny Montano: Mr. Vice-President, I am aware that the Minister intends to send both of these Bills to a Select Committee, but I feel it is appropriate that before we do that, I make one or two comments on it. I am very much in accord with the sensitivities of the Minister on these two Bills. They are very serious matters and cannot easily be debated and settled in this forum. I think the right way is, in fact, to send it to a committee and have it settled. That being the case, I would still, nevertheless, like to express some of the concerns I have with the two Bills, in a general way.

The Human Tissue Transplant Bill, really is badly flawed in its drafting. When I looked at what takes place in other jurisdictions, I found that the Bill seems to be unduly restrictive. I was guided, primarily, by the Human Organ Transplant Act, 1989 of the United Kingdom, which is a very short Act, Mr. Vice-President: three pages in total. The bulk of the workings of the Bill is done by means of regulations, and not necessarily by means of the law, and it seems to be a better approach to the whole business, because it allows the regulations to be changed more easily as time goes by.

There is a general prohibition on the commercial dealings in human organs, which is what we have here. It generally prohibits the transplantation between persons that are not genetically related. Almost like what we have here. However, one of the things is that it does not make a distinction between minors and non minors, because the problem that you have fallen into with this legislation in terms of dealing with minors, and the granting of a consent, is that it says that it must be parental consent.

Mr. Vice-President, I was certainly in a situation where my son was under the custody of his mother, my first wife, living in Florida and certainly, if she had granted certain consent, I would have had certain real objections. So, the question of the consent of the parents has got to be very carefully looked at in terms of whether it is the custodial parent only, or both of the parents. Who has the ultimate right? That goes on the other side in terms of the ratification, as well. In other words, if the approval is granted as is dealt with in clauses 9,10,11 and 12, and one of the parents wants to revoke the approval, the Bill is silent on the issue as to whether it is both of the parents, or one of the parents—I mean it is a very serious issue that must be dealt with. I can speak from the heart on this matter, it does not matter whether you are the custodial parent or not, you still have a very specific concern and interest in that situation. That is something I have no hard and fast answer on. I think it would require a great deal of reflection and consideration.

I also had some concerns about the fact that there is an absolute prohibition on the transplantation of non-regenerative tissue of a minor—let us say—to a parent. As far as I can determine that does not prevail in other legislations, and certainly, it is something that I think we would need to consider very seriously.

The most serious issue, I think, that has been completely omitted by the legislation we have in front of us, is the issue of the transplantation from donors who have willed their organs to be donated on their death. In the United States, there are about 55,000 persons waiting on organs. Whether it is liver, kidney, heart, lung, or whatever. I understand that about 4,000 persons die each year waiting on these transplants. One of the problems the Bill does not deal with, is the question of the allocation of the organs. The point that I am making here is this: if you have a rich man and a poor man, and they are both in urgent need of a kidney, and somebody dies and has agreed that his organs be used for transplantation purposes, who gets the kidney, who decides, and how is it allocated? It is a very serious and real problem.

I understand that in the United States, it took them about 16 or 17 years before they finally completed the drafting of the regulations to solve that problem. They have set up a national agency that does the allocation of the organs. I do not think we can bring this legislation back here before we have tidied up that issue. That issue is the focal problem behind the transplantation legislation.

The Minister did deal with the question of brain death. I would say nothing on that matter for the moment in the Senate. He said it is going to a committee and so forth, but again, I do not think we can really complete deliberations on this Bill,

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until that issue has been settled. Again, where you have situations where a person is dead, or brain dead, and may in fact have offered his organs for transplantation, I think that has to be dealt with first of all.

I have lots of other information about transplantation and so forth, but I think I would hold file on that until this Bill comes back from the committee stage. So, I will go on then to the Human Reproductive and Genetic Technologies Bill. This Bill is a little bit more difficult than the other one. There are issues here that are far more difficult to resolve, and there are going to be many emotional responses to this legislation. It is filled with moral and theological issues, as well as, legal issues. The first part of the Bill, of course, deals with the cloning and cross breeding, and all that sort of business. I do not think it is going to cause too much of a problem, and therefore, I would just like to focus on two major issues that we have to pay attention to, and they are these: The first thing, of course, has to do with genetic engineering. Now, Members of this honourable Chamber would know, only too well, that scientists abroad and the world over, in fact, are getting very close to identifying particular genes that cause specific illnesses, including certain types of cancers and so forth. When that system of identification goes a little bit further, I am sure that Members can cast their minds forward and can foresee that it would be a very short step before scientists can, in fact, alter genes so that the defective gene is not passed on.

I know of a situation first hand, for instance, where—again, it involves my ex-wife—Her present husband has a genetic disorder which deals with his kidneys. It killed his grandfather at 55; it killed his father at 55, and he is now 54 and he has serious medical problems. Now, they have no children, and they are not planning to have any children, but it becomes a very difficult issue. Supposing it is that scientists could say: we know exactly what gene it is that causes this problem, and we can correct the problem if you allow us to genetically alter your sperm before fertilization takes place. Is that wrong? That is the question.

3.55. p.m.

There are many who would say, “yes”, and many who would say, “no”. Of course, consider the plight of the couple who are saying the only way that we can really bring a child into this world is believing that the child has a fair chance of a good life. To bring the child into the world knowing that he is going to have a defect which is going to kill him is a difficult decision to take. So there are many moral, as well as theological issues which need to be fully ventilated and

explored. It is something that needs to be opened up to the wider community as well, not just the committee. So I would leave that alone at that point.

The other issue which I think is extremely sensitive is surrogate motherhood. Again, I know of situations and families who are going to depend on surrogate motherhood in order for them to have families. I know of a particular young girl who is 26 years old from Diego Martin who has a problem called endometriosis. As I understand it, it is virtually a destruction of the uterus and unless she becomes pregnant and has a baby within the next 18 months, she would never be able to have a natural child. She has an 18-months window and is not married and she has three sisters.

The technology exists where her ovum could be extracted, frozen, and when she gets married, have a fertilization *in vitro* with her husband's sperm and her sister can carry the child naturally. Genetically, the child is hers and her husband's, but she would not have been the person who would have borne the child. This Bill, as is presently drafted, is going to make her a criminal. On conviction, on indictment, she would be liable to a fine of \$500,000 and imprisonment for 10 years. I think that is swatting a fly with an atomic bomb. I cannot see that it makes sense.

I did take the time and effort to consult with some of the religious organizations, and being a Christian, I spoke with the Christian churches and their position with respect—I did not speak with the Presbyterian Church—to the Anglican and Catholic churches, they felt it was immoral to interfere with the natural processes of life and, therefore, on the face of it, were not in support of surrogate motherhood. Their position was this: how great is the evil? There was a particular priest, Father De Verteuil of the Catholic Church who gave me that sentence. He said: “How great is the evil?” I thought that was a lovely way of putting it, in the sense that there could be a situation where a sister out of the natural love for her sister, decides to carry the child for her. How great is that evil? Does it warrant \$500,000 and 10 years in prison? I think we need to look at that situation very carefully.

Of course, in the issue of surrogate motherhood, there are basically two situations you have to watch out for; one is the commercial surrogation, and the other is the altruistic surrogation. Of course, what I have been speaking about so far is where the bearer of the child is doing it for altruistic purposes. The consensus of opinion is worldwide. The commercial surrogacy has been outlawed and made illegal in most countries and certainly in the case of Babyhem in the

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United States of America where there was a leading case. In the United States of America, they are far more liberal and only a couple of the states have actually outlawed surrogate motherhood. Although I understand in Australia, they have approached it differently and have left the issue of the altruistic surrogate motherhood, although in most of the states in Australia they have made the commercial surrogacy illegal.

One of the things we need to know is really what the people of this country's sentiments are. In 1987 in Australia, the New South Wales Law Reform Commission actually did an opinion poll and they found that 51 per cent of Australians were not opposed to surrogacy, but 16 per cent expressed approvals specifically, and 13 per cent reserved their opinion saying that they needed to know more. It was more clear that in Australia there was support for surrogacy and there was support for some form of payment in the sense that at least 40 per cent agreed that there should be a fee, plus medical cost; 34 per cent said that only medical expenses should be paid and only 17 per cent felt that no payment at all should be made. I think we need to know directly.

Sen. Prof. Ramchand: Mr. President, I wonder if the Senator's researches have led him to ask the question if someone carries this child for nine months, would there afterwards be an emotional reaction where the person says: "I have carried it for nine months, therefore, it is mine and I want it?"

Sen. D. Montano: In fact, there was an article by Winkler & Van Keppel "*Relinquishing Mothers in Adoption, the Long-term Adjustment*" which is the only hard information which exists. The 1984 article suggested that from a comprehensive survey of women who have given up their babies for adoption, the majority have felt an overwhelming sense of loss up to 30 years later. So the point is very well taken.

Even in a situation where there may be an altruistic surrogacy, you may in fact, create tremendous harm and damage to the woman who has given up the baby. More than that, there were basically three problems with the altruistic surrogacy. One, including the situation I mentioned, was that family members, like the sister of this girl, feel pressured that they must do this, they feel they have a duty and an obligation and do not want to refuse even though they really do want to.

Secondly, the recipient may sometimes feel that she is not free to refuse, because it may be the father who is doing this, and the wife does not want somebody else to have her baby so there are problems there.

The third issue, which I think is far more potentially damaging is the fact that the donor, that is the mother who carries the child, is usually left with a sense of propriety over the child. So there is now a situation where the child functionally has two mothers especially in that very close relationship, and that is a most unhappy situation. It may be desirable from an altruistic standpoint, but it can be most unhappy. So the situation is by far unclear and most of the Legislatures worldwide, tend to argue against any form of surrogacy, however, notwithstanding that, the population generally feels that at least the altruistic surrogacy should be allowed.

That may very well be because the level of information which has been disseminated to the public has not been all that good. I think when we deal with this issue, it has to be dealt with in a very public way if we want to resolve it properly. I do not think, based on what I see happening outside Trinidad and Tobago, it is much more a question of the Legislatures among us here deciding on what we think is right and what we think is wrong. We have to take the decisions which we make to the people so that they understand exactly what we are doing and what we are not doing.

The evidence would suggest that in Australia, the United States of America and Canada, the people are not in sync with the Legislatures. There were 10 committees to study the problem in Australia, nine of them came out firmly against surrogacy in any form and yet as I just indicated, the majority of the population tend to support surrogacy in one form or another showing that there is a clear difference between the viewpoint of legislators and that of the population. If we want to avoid that situation here, then we have to take this debate much further so that everybody understands what we do at the end of the day .

Mr. Vice-President, I really did not want to get too far into the theological issues. I did get some interesting information from the Muslim community and their position is eminently very reasonable and some of the concepts in here are really interesting. I would like to share with my colleagues what this particular writer is saying in terms of the contract for surrogacy and paying a mother for the surrogacy.

“For example, no transaction involving the sale of or purchase of alcohol (intoxicating drinks) would be legally valid.”

I thought that was a wonderful analogy. So how on earth could a contract for the procurement of a baby possibly be legal. Of course, it is completely illegal and immoral. I thought that was a very nice way of putting it.

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Prophet Muhammed is reported to have said:

“‘The child is for the bed’. The mother is the one who gives birth to it. Therefore, the surrogate mother will naturally, truly, and legally be the mother of the child.”

That is the position of the mother as I understand it. It was very interesting. What they said is basically *in vitro* fertilization between a husband and a wife would be acceptable as this girl has indicated that the issue of surrogacy is clearly out of the equation.

Mr. Vice-President, I wind up at this point and I look forward to participating in the committee and would certainly do the best I can to help with the situation.

Thank you.

4.10 p.m.

Sen. Prof. Julian Kenny: I will speak very briefly. I have no problem with the Transplant Bill, which is fairly straightforward. It would probably require further work, but the other one, the Human Reproductive and Genetic Technologies Bill, I am not sure that they really ought to be linked.

Transplant technology from cadavers, transplant from donors, is quite straightforward. We are hamstrung because we do not have a legislative framework for this. You can do it yes. If you have kidney problems and you have a relative, you can arrange it. Corneal transplants are “old hat”, you have to bring corneas in from the United States. So I think that this particular Bill really ought to move forward fairly quickly.

Mr. Vice-President, the Human Reproductive and Genetic Technologies Bill, I think, really ought to be discussed widely within the community. I think that something like the Transplant Bill could become law within a matter of a few months, whereas, I think the Human Reproductive and Genetic Technologies Bill is really something that is five years down the line.

Let us face reality. Today, in Trinidad, there is one specialist who is, in fact, helping with fertilization problems. He is helping people where he induces ovulation or induces a larger number of ova in the woman who has some difficulties in conceiving and if there is a problem with spermatozoa, he is stimulating the production of higher sperm count and he will not necessarily have the couple, copulate per se, but he may remove spermatozoa and he may introduce

his artificial insemination. It has, in fact, worked and I think that is about the level of it, at least, as far as I know.

I would be very worried if they are doing *in vitro* work currently, because with *in vitro* work you make several embryos and you implant and the rest—what you do with them is flush them down the sink. I hope that people are not doing this, but we are so far from some of these other technologies; and who are the people who are going to be doing the research—Mt. Hope?

I would like to take a point which Sen. Montano made and that is: we really ought to start an extended public debate or consideration of the matter of reproduction technologies; and seeing that the Minister has a powerful influence on the medical faculty at Mt. Hope, perhaps the place for this to start is for the people who are likely to be doing the research to hold public symposiums for the education of us legislators and the general public, who may be interested. That will only be a start, and I think that if we start this down the line, in a few years' time we will be in a position to make good legislation.

Mr. Vice-President, I will just go through—I am not going to go through clause 3 which prohibits, but if you go down, most of us would agree that you can prohibit them. I mean, anyone who in this country wants to fuse animal material with human material is a raving lunatic.

However, I would also have some problems with most of the others. But there is one that strikes me as being a bit of an anomaly, and that is: this would prohibit diagnostic procedures other than ultra sound to determine the sex of the child. The phrasing there is a bit awkward, in that you are using a procedure when you say “to determine the sex of the child” that is to decide to make the child male or female, or to determine whether the child is male or female? I question the drafting of this.

Amniocentesis is a perfectly routine procedure which is used for determining certain genetically lethal conditions, where the parents may want to know, because they are carriers of genetic material, the sex of the child or they may want to know from the chromosomes whether the child is going to be a double recessive and therefore is going to die prematurely, and it is going to cost them a fortune. Amniocentesis—I am sorry, Mr. Vice-President—I give way.

Dr. Rafeeq: If that is determined early in the pregnancy would you support abortion then? That is the question that will arise.

Sen. Prof. J. Kenny: Yes, I understood this because in the United States and other parts of the world abortion is accepted as a therapy for severe genetic condition. But, amniocentesis can determine whether there is a chromosome abnormality of any kind, and once you do this, long before you have a big foetus, once the embryo is developing in the amniotic sac, you can remove a tiny quantity of amniotic fluid and from this you can get a cell and from this cell you can determine, does it have two 'x' chromosomes? females. Does it have a 'y' chromosome? Male. And that is the end of it. You have determined and you have decided the sex using amniocentesis.

Now, if it is the intention, that amniocentesis is prohibited in this country, I accept the position.

Thank you Mr. Vice-President.

Mr. Vice-President: The Minister of Health

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Thank you, Mr. Vice-President. I am very grateful for the contributions that have been made and I will not be long in winding up. I just want to say that several pieces of legislation from all over the world were looked at in the final compilation of this document. As I said, in the case of the Human Tissue Transplant Bill this has been in the offing for perhaps some 14 or 15 years and legislation from all over the world was looked at before we came up with this final document. With respect to both of these Bills, Mr. Vice-President, I will not be able to claim that these are perfect pieces of legislation and I also want to say that at the end of whatever consultative process we were engaged in, whatever document comes up will still not be perfect. What we will attempt to do, however, is to take the views of as many people as possible who want to contribute to the debate into consideration and come up with what we feel is an acceptable piece of legislation for Trinidad and Tobago. Mr. Vice-President, I beg to move that "An Act respecting human reproductive technologies and commercial transactions relating to human reproduction" be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

HUMAN TISSUE TRANSPLANT BILL

Order for second reading read

The Minister of Health (Dr. The Hon. Hamza Rafeeq): Mr. Vice-President, I beg to move,

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That a Bill to make provision for the removal of human tissue for transplantation and blood for transfusion and for matters connected therewith, be now read a second time.

Question proposed.

Question put and agreed to.

4.20 pm

**Select Committee
(Appointment of)**

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move the following Motion:

Be it resolved that the following six members of the Senate be appointed to serve with an equal number from the House of Representatives on a Joint Select Committee of Parliament to consider and report on the Bills entitled “An Act respecting human reproductive technologies and commercial transactions relating to human reproduction” and “An Act to make provision for the removal of human tissue for transplantation and blood for transfusion and for matters connected therewith”:

Mr. Joseph Theodore

Mrs. Carol Cuffy-Dowlat

Mr. Andrew Gabriel

Mr. Danny Montano

Prof. Julian Kenny

Prof. John Spence

Question put and agreed to.

Sen. Mark: Mr. President, we will go to Bill No. 6 when we return: The Caribbean Investment Fund Bill.

4.24 p.m.: *Sitting suspended.*

5.02 p.m.: *Sitting resumed.*

Mr. Vice-President: We will now proceed with Bill No. 6 on the Order Paper.

CARIBBEAN INVESTMENT FUND BILL

Order for second reading read.

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

That a Bill to give effect to the Agreement concerning the Caribbean Investment Fund and to provide for matters connected with or related to the foregoing be now read a second time.

It was at the Conference of Heads of Government of the Caribbean Community held in Grenada in July 1989 that it was first agreed that the technical work should commence immediately on the establishment of a regional venture capital fund. A working group was then established by the Government of Jamaica to consider the matter further and to delve into the viability, the possibility and the relevance of such a fund.

One of the main recommendations of the working group was that the Caribbean governments should sponsor the establishment of a privately-owned Caribbean Investment Fund. That is one of the first characteristics I would like to outline about this fund. It is supposed to be a privately owned Caribbean Investment Fund not funded by the governments of Caricom, but the role of these Caribbean governments would be to set out the objectives and the characteristics of the fund, and to determine what incentives and assistance they would give to the group or groups who would be presenting proposals which, in their judgment, would satisfy the objectives and characteristics of the fund.

In other words, Mr. Vice-President, the Caribbean governments have seen it necessary to set up this fund for capital formation, to encourage investment in the Caribbean, but have seen that it is important for the private sector to get involved in the actual generation of the fund and that the role of the governments would be, really, the facilitative role, creating the enabling environment, setting up incentives and monitoring the fund to ensure that it keeps in accordance with the objectives that have been set.

The draft principles for the establishment of the Caribbean Investment Fund were approved at the Third Intersessional Meeting of Caricom Heads of Government in Kingston on February 19, 1992. The fund was registered in the Bahamas as the Caribbean Basin Investment Fund on May 7, 1997 by the ICWI Group Limited of 28—48 Barbados Avenue, Kingston 5 in the parish of St.

Andrew in Jamaica. It is important to dwell on the title of the fund, The Caribbean Basin Investment Fund, because in the amendment to the supplemental agreement, one would recall that investment opportunities in countries of the wider Caribbean Basin are also provided.

Mr. Vice-President, Trinidad and Tobago signed the Caribbean Investment Fund agreement and the supplemental agreement thereto on October 13, 1993 and July 6, 1996 respectively, and both agreements have now been incorporated in one agreement and this was signed by Trinidad and Tobago on August 26, 1998.

5.05 p.m.

The Agreement sets out the concessions and privileges that each signatory state is required to grant to the fund for a certain period of time in order to facilitate the establishment and operation of the fund and also to enhance its viability.

The concessions, tax incentives and privileges to be granted, concern the acquiring, holding and disposal of real and personal property by the fund, the transferability without restriction of shares within and outside signatory states. That is important because the fund envisages being funded both from within the CARICOM region and outside of it, by both domestic, internal, intra-CARICOM capital and also external capital. It also deals with the approvals with respect to investments, securities, real and personal property and remittances by the Fund of any profits, dividends and capital gains.

The agreement also requires signatory states to grant exclusivity to the fund for a period of five years, the reason for this being that since this is a new arrangement, a new foray or attempt to create capital formation and to deepen the financial institutional framework and to develop credibility with respect to the financial systems in the Caribbean and so forth, we feel that a measure of exclusivity must be given to this fund, and the signatory states have agreed to this, for a period of five years, thereby prohibiting a signatory state from granting to any other CARICOM Regional Fund or institution the same concessions and privileges that have been granted to the fund. Of course, they do not have these exclusive conditions in perpetuity. As I said, it is for five years and also based on certain conditions. The fund must behave in a certain way. It must achieve certain objectives, otherwise, this exclusive quality of the agreement will be denied the fund. That is all that was elaborated upon in the agreement.

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The Bill before this honourable Senate seeks to give effect to Trinidad and Tobago's obligations under the agreement by incorporating the applicable provisions of the agreement into the Laws of Trinidad and Tobago. In particular, it seeks to give the force of law to clauses 4(2) and 12(2) of Schedule II of the Bill. Here we are referring to the original agreement. If you look at clause 4(2), it sets out all the concessions, privileges, exemptions and so forth, which will be allowed to the fund. Of course, this requires legislation in the individual countries and this also pertains to clause 12(2) of the original agreement. As I said, the original and supplemental agreements and the agreement incorporating both previous agreements are contained in the three Schedules to the Bill.

The intention of the Caribbean Community is to facilitate the provision of capital in equity form to productive enterprises in the region, in order to encourage investment and to prevent undue reliance on loan capital. This is a very important development in our region. It has taken quite a long time in coming, but it is very important, because if we are to achieve the benefits of economic integration, we must have capital available in the Caribbean. This, of course, will promote the economic integration that we are seeking to achieve. The fund will provide for business expansion and new ventures and would also be able to take up privatization issues. As you know, privatization is something that is going on, to a certain extent, in the CARICOM countries and the fund will also be allowed to take advantage of any of these opportunities that may arise.

Most of its capital would, however, and this is very important, be used to provide new capital to enterprises. It operates like the Venture Capital Fund. The purpose of it is to ensure business expansion and the emphasis will be on new enterprises, or those enterprises that are seeking to expand.

In facilitating the establishment of the Fund, the Caribbean Community is seeking, not only to enhance investment in the productive enterprises in the region, but also as I said before, to encourage financial institutional development and to enhance the financial credibility of the region.

One other by-product of this development is that, it will provide significant market information. It will encourage market research and provide good, sound analysis as well, for the varied investment opportunities that are available in the Caribbean. Obviously, as well, the Fund is therefore going to be an essential part of the whole liberalization process that we are involved in, the whole attempt to insert the Caribbean economies into the global economy, and at the same time, promote the economic integration of the CARICOM countries.

It is very important to note that profitability will remain the main goal of this fund. Whilst there is a benevolent intent, if you want to use that word, in its genesis and its objectives, in that we want to encourage investment in all of the countries in CARICOM, the fund will operate as a business, free from governmental interference, with an advisory board monitoring the operations of the fund and ensuring that it adheres to the principles and objectives upon which it is established, but it will be operating mainly with an eye on the bottom line, whilst at the same time, ensuring that it spreads its investments to all CARICOM countries directly and through joint ventures with other entrepreneurs or financial institutions making use of opportunities provided by the incentives which all governments in the region are committed to provide.

I would just like to take this honourable Senate into the realm of some of the incentives that the Member-states will provide to this fund, for the operation of the fund, which is intended to enhance its viability.

CARICOM states under the agreement, have agreed to provide the following incentives:

1. The fund will be free to remit dividends and capital gains on its individual investments to its headquarters and will be exempted from with-holding taxes on such remittances.
2. In order to encourage incorporation in a Member state of CARICOM, the country in which it has agreed the fund will be incorporated, will provide tax exempt status to the Fund and will also allow free remittability of dividends and capital gains and repatriation of capital to shareholders.
3. Tax incentives will be provided in the first instance for a period of ten years and will be reviewed towards the end of that period.
4. The fund will be allowed to move its capital freely among CARICOM states.
5. The Caribbean Community will not provide such tax and remittability incentives to any other fund set up for the same or similar purposes for a period of five years, unless such funds meet the same conditions set out herein. This exclusive CARICOM status will be reviewed.

As I said, it will not be something that will be held in perpetuity. It will be reviewed depending on the performance of the fund and so forth—nearing the end of the five years.

6. The Fund will be granted access to privatization issues.

With respect to the capitalization of the fund, the agreement provides for the Fund to be established with a minimum procurement of the capital and an early establishment of the fund. The Heads of Government of the Caribbean Community gave the ICWI Group a deadline of March 31, 1999 to operationalize the Caribbean Investment Fund under the new agreement. The ICWI Group has stated that giving the agreement the force of law would facilitate closure of the agreements. This is one of the reasons we are here today seeking to have this legislation enacted, to again facilitate the operationalization of the fund.

5.15 p.m.

Mr. Vice-President, subscription shall be in two tranches; the first tranche, a minimum of US \$25 million and may I say, investment in the fund will be in hard currency. It will be in US dollars and the first tranche must be at a minimum of US \$25 million and this shall be subscribed and paid up by March 31, 1999 and the second tranche, which will comprise the difference of the capital of the fund and the amount of the first tranche, shall be subscribed and paid up no later than September 30, 1999 of the entering into force of the agreement.

The agreement shall enter into force when it has been duly executed by the ICWI Group Limited and any number of the signatory states listed in the Schedule of the Bill—and this number of states must include any three of the following: Jamaica, Barbados, Guyana, and Trinidad and Tobago—must be signatory states before the fund can come into operation.

The ICWI Group Limited, as I said before, will be expected to raise capital, both domestically, that is, within the domestic Caricom market; as well as externally and the view of the Heads of Government is that they are not averse to majority external shareholding of the fund. There is really no problem with that; they realize the financial environment. There is no problem with that as long as the fund, as I said before, adheres to the objectives, goals and principles as outlined by the Heads of Government.

With respect to the Board of Directors, the Caribbean Community expects to have regional representation and the Caribbean Community and the company will consult regarding the establishment of an advisory board. The agreement provides for the Caricom Community to have seven members on the advisory board. As I said before, the role of this advisory board will be to monitor the operations of the fund, report regularly to the Heads of Government through the Caricom Secretariat as to how the fund is operating, ensuring that it is abiding by the principles which have been outlined.

Mr. Vice-President, the Bill itself is very simple in structure. Clauses 1 and 2 provide for the short title and commencement of the Bill. Clause 3 contains the interpretation of the various words used in the Bill. Clause 4 provides for the acceptance of the agreement by the Government of Trinidad and Tobago. Clause 5 provides that certain clauses in the original agreement which concern concessions, privileges and exclusivity of the fund shall have the force of law in Trinidad and Tobago. Clause 6 would give the Minister the power to make provisions to give effect to the provisions of the agreement and clause 7 ensures that if there are any amendments to the agreement, this will only come into force by bringing it back to the Parliament and subjecting it to a negative resolution of Parliament.

I think this honourable Senate ought to welcome this piece of legislation. In an uncertain international environment, funding for enterprises, capital formation and expansion of business, are absolutely necessary. These elements of our economic integration are absolutely necessary and it is becoming more and more obvious to all of us that domestic action and reliance on regional processes are critical to the survival of the fragile economies of the Caricom countries.

The establishment of this fund, when it becomes viable, buoyant, strong and entrenched will go a very long way to helping the sustained growth of the Caricom economies. We expect that no Opposition would come to the establishment of this Caribbean Investment Fund because this is something which spanned a number of governments. It has been long in the making. All governments have, in some way, contributed to it, have supported the establishment of it—

Sen. Prof. Ramchand: Thank you, Minister. It is just a question. I cannot follow so I thought I better ask the question before the Minister goes much further. It strikes me as he is saying that we have a thing called the Caribbean Development Bank. I wonder if the Minister could explain the difference between the proposed fund and the Caribbean Development Bank, whether a new bureaucracy would be needed to create that new fund and whether it might be possible to modify the Caribbean Development Bank to do the things that the proposed fund might be doing.

Hon. R. Maraj: Mr. Vice-President, the main purpose of the Caribbean Investment Fund is to encourage business expansion, go into new areas of investment, encourage capital formation, deepen the financial and institutional structure of the Caribbean countries. I do not know whether the Caribbean Development Bank is doing all that, or I do not know whether the CDB on its own

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can do all that. Capital formation is absolutely necessary for business expansion; capital formation is absolutely necessary for the integration of the economies, and I think that this fund will be supportive of the work that the CDB is doing and, in fact, will lead the way into new areas of investment and business activity. That is my answer to the question.

Having said all that, Mr. Vice-President, as I said before, I expect no—

Sen. Yuille-Williams: Thank you very much. I tried to get you before you started just now. I just wondered about the capitalization of the fund and those dates you called, about US \$25 million by March 31 and a date for the second tranche. According to the notes I have, I could not follow you.

Hon. R. Maraj: Yes. I am saying that the first tranche of US \$25 million must be had by March 31 and the ICWI Group Limited has given that agreement and that the second tranche must be in place and paid up by September 30, 1999. That is the agreement that has been subscribed to by the ICWI Group Limited and the signatory states.

Sen. Prof. Spence: Mr. Vice-President, could the hon. Minister explain what ICWI is, because it is not defined in the Bill?

Hon. R. Maraj: The ICWI Group Limited, Mr. Vice-President, is a financial group operating out of Jamaica and, in consultation with the Heads of Government, it is the one that has been earmarked as the body which will help to engender and set this fund afloat. In other words, it will be the parent body, as it were, of this fund which will assume an independent identity after having come into operation. The exact meaning of the acronym, I do not recall at this time, Mr. Vice-President, but that, in short, is an explanation to the question.

Sen. Rev. Teelucksingh: Thank you, Minister. You said US \$25 million has to be paid up by the end of March. Paid up by whom?

Hon. R. Maraj: The ICWI Group Limited has to convince the Heads of Government and has to prove to the Heads of Government that by March 31, it has been able to capitalize the fund to the tune of US \$25 million. It may do this in whatever way it chooses, seek external funding, domestic subscriptions and so forth, but it will be its responsibility to have that fund capitalized to the tune of US \$25 million.

Sen. Dr. St. Cyr: Mr. Vice-President, would the Government underwrite the fund in any way?

Hon. R. Maraj: No. The Government is not going to be underwriting the fund in any way; the Government is not going to be a guarantor in any way; the signatory states will, as I said before, create the environment, be the facilitator, provide the incentives, provide the concessions, in order to promote the fund, in order to make the fund viable, and it will be doing this for a minimum period of time, five years, after which it will be reviewed. Even during that five years, the advisory board will be looking at the operations of the fund to see whether the fund is adhering to the rules and the principles.

For example, there is a certain part in the agreement which speaks about the amount of funds to be invested within a three-year period in the Caricom states and if that principle is not adhered to, then the agreement can be broken by the Government.

In other words, if the fund is capitalized to the fullest and after a period of three years, it does not expend 75 per cent of the funds as said in the agreement and amended in the supplemental, the governments are entitled to question the operation of the fund. So that they have a measure of legal control over the fund; they have a monitoring role, but they do not in any way finance the fund and they do not act as a guarantor of the fund.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Nafeesa Mohammed: Mr. Vice-President, I sat here and listened to the hon. Minister as he presented this Bill, which appears to be a very simple and straightforward piece of legislation, but the haste and speed with which he presented the Bill, I feel I need two Panadol now. I was trying to keep abreast of the points he was trying to make. I know whenever he speaks, he speaks with a certain kind of passion. But this Bill certainly gives one the opportunity to raise several issues that will be of concern to all of us in Trinidad and Tobago and, indeed, in Caricom at large.

Looking at the Bill, which seeks to make certain provisions of the Caribbean Investment Fund Agreement part of our domestic law, we on this side certainly have no objections to the intent and purpose of the Bill. In fact, when the Schedules attached to the Bill are looked at, it will be seen that the first agreement, the original agreement, which is in Schedule II was, in fact, signed by the member states of Caricom in 1993 and there was a supplemental agreement signed around July, 1996. In Schedule I, there is an agreement that seems to be

incorporating the two previous agreements. This one is dated August 1998, and I think when we look at the provisions of this agreement, we see the time constraints that the hon. Minister mentioned about the ICWI Group Limited having to mobilize the resources by March 31, 1999.

As he was presenting the Bill, this was of great concern to us on this side in terms of the mobilization of these resources. From where would the resources come? I know the Minister sought to clear it up but, certainly, today is March 16 and March 31 is a mere two weeks from now. One would have thought that the hon. Minister would have been able to tell us this afternoon how far the ICWI Group Limited has been able to reach insofar as the mobilization of these resources is concerned, because in my initial reading of the Bill, I thought that perhaps all member states were expected to contribute towards the fund, so it is very relieving to know that we do not, in fact, have to make a financial contribution, but we are going to be mere facilitators to ensure that the agreement is implemented in the various states.

We have no difficulty with that, but in terms of the mobilization of these resources, it really is of concern. I also wondered about the operations of this fund. The hon. Minister indicated that there would be an advisory board. He mentioned that the member states would be allowed to appoint seven members.

Mr. Maraj: There is a board of directors and an advisory board.

Sen. N. Mohammed: Now, in terms of the appointment of that board of directors, it is a bit confusing knowing that they are based in Jamaica. Is it that they will be operating like a private company where shareholders will elect—

Mr. Maraj: Private company.

5.30 p.m.

Sen. N. Mohammed: Okay. Well, that clears up some of the concerns.

Mr. Vice-President, we know that over the last few years, or so, several developments have been taking place within Caricom, and in the late 1980s and 1990s, the move has been towards the single market and a single economy. We would have liked to know something about where we have reached because when you are talking about the single market, you are talking about member states having to put certain things in place in order to ensure that you reach that stage where you can truly arrive at a single market and a single economy. For example,

they talk about the free movement of services; financial integration, including the free movement of capital; the free movement of labour. When you talk about the single economy, you are talking about the co-ordination of your monetary and fiscal policies, and what have you.

It is very interesting to hear the hon. Minister speak about the free movement of capital because this is what this fund is seeking to encourage, I assume. But I must ask these questions. What is happening? What is the present status of the Caricom Skills National Bill which we debated here two years ago? When the hon. Minister came here, he was very optimistic and passionate that this piece of legislation will facilitate the free movement of labour. And when we go back into what had happened to Julian Rogers, we really have to ask the questions. This is really the first opportunity we are having in the Parliament to raise some of these issues, and I hope that the hon. Minister would be able to tell us something about how far we have reached in terms of deepening the integration process in terms of that aspect of it, and in particular, the free movement of labour.

It is also a very opportune time, hon. Minister, to tell us something about what recently took place—where were the hon. Minister and Prime Minister recently?—We lose track of your foreign travels. I think it was in Suriname or Panama.

Mr. Maraj: Suriname and Panama.

Sen. N. Mohammed: Suriname and Panama. I mean, we in this Parliament here really have no way of keeping tabs on our Ministers and their frequent travels—I heard the expression “frequent fliers”; but one would assume that they are carrying out the business of Government.

Just last week it was very high on our agenda—not just here in Trinidad, but indeed in the Caricom states—the whole question of bananas, and what is happening between the United States and the ruling that had been given with respect to bananas. This is a good time, hon. Minister, to tell us what really transpired. Because in one report that we got, I read somewhere—I do not have the actual newspaper clipping—that the Caricom states were going to take some kind of action in terms of co-operating with the US Government in terms of drug trafficking and what have you, in an effort to get them to change their attitude and position with respect to this banana issue. So this is a good opportunity, hon. Minister, to tell us where we stand in Trinidad and Tobago, and indeed in the Caricom, with respect to these very topical matters. I know it is late in the evening; we do not expect that you will go on to give us a whole discourse on it—

Mr. Maraj: You have given me many things to say.

Sen. N. Mohammed: But, certainly, we would like you to just give us an idea on where we stand with these matters.

In the meanwhile, Mr. Vice-President, as I mentioned before, in terms of the provisions of the Bill that is before us, we have no difficulties in supporting the incorporation of these provisions from the agreement into our laws, but certainly we should know something more about the status of the mobilization of these resources that are involved.

You talked about March 31 for the first tranche. What about the second tranche—September 1999? Are they going to meet that deadline? And then how do you access those resources? If the ICWI is to report to Caricom, I take it that they already have their board established and they are in full operation, because March 31st to mobilizes US \$25 million, I mean, that is a short space of time. We need to know what really is the position.

So, on that note, Mr. Vice-President, I simply want to indicate that we will support the piece of legislation, but we are looking forward to some answers.

Thank you.

Sen. Prof. John Spence: Mr. Vice-President, there are just one or two points that I would like to raise. Certainly, I would be very glad if we could get a little more information about ICWI. I said to one of my colleagues, in jest, “Perhaps it is chaired by Mr. Acker.” It really is a bit much for us to be passing legislation without knowing anything about the group that is running this particular activity. That is one point. I realize that we were spending much time on this matter but really, at some stage, we should know a bit more about this group.

The other points are these: this means that Trinidad and Tobago will give tax concessions, completely duty free, and give tax-free profits for five years. But it was only last Tuesday that we were told by Minister Sudama that the Government’s present policy is not to give complete tax-free concessions, but to give partial concessions. So although I understand he was talking about the local scene and this is a different scene, nevertheless what could happen is that investments could now come in with the tax-free concession for five years. So it seems to be a departure from the policy just enunciated, and I think one needs to understand that this may be a way of circumventing that particular policy: foreign investments through this group.

The third point is, that I am finding it a little bit difficult to understand the exclusivity of this particular group. It was pointed out to me, by one of my colleagues, that CDC has similar concessions. Does that mean that we have to terminate the concession that we have already given to CDC, or does it only apply to new concessions? Does it mean, for example, that if the Government policy were to change, and we are going to give tax-free concessions again for certain five-year periods, let us say, could the Local Government give directly, as opposed to Caribbean-wide operations, could we give tax-free concessions, moreso in terms of import duties? For example, let us take an agricultural investment—I think there are tax-free concessions with respect to import duties in the agricultural sector—and suppose that we decided that the investment would be tax-free for five years, would we then be breaking this agreement, if we did that?

But that apart, Mr. Vice-President, I am very sorry that the hon. Minister was not here for our previous discussion on the Investment Promotion Bill. I am also sorry that the hon. Minister of Trade is not here for this discussion because, as you are aware, when the hon. Minister of Foreign Affairs presented this Bill, it is obvious that he had great hopes for its success.

5.40 p.m.

Now what we were discussing earlier, at least the point of view that I was putting forward earlier, is our lack of success in getting investments in the non-oil sector in Trinidad and Tobago, both from local funding and international funding. Now if this is the case—and I was asking in effect, what should we do? I did not think that the Investment Promotion Bill that we just discussed, or we are still discussing, was going to fit that bill. I did not think it would do anything for further investment. But if indeed this is a mechanism for encouraging investment, why do we not set up a Trinidad and Tobago fund?

Mr. Maraj: We can.

Sen. Prof. J. Spence: I am not suggesting that we get rid of this one, but why do we not, is what I am asking? If it is a good idea that can work—and I am not knocking it, I am saying the thought occurred to me as we were talking, because we had just been discussing this other bill, and I certainly do not think that we have done anything to promote investment that succeeds—if this is a way of succeeding, if, given these concessions, and we are giving them through this Caribbean mechanism, why could we not give them directly through a Trinidad mechanism?

It seems to me, Sir, that perhaps we should put forward to your government the possibility of a local investment fund that has these concessions, and hopefully we might be able to break this difficulty that we have about investing in the non-oil sector. I thank you very much.

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I just have some questions because I want to try to understand what is going on and I do join Sen. Prof. Spence in wanting to know more about who or what is ICWI. I feel that we cannot possibly approve of this or pass this legislation if we do not have proper information about ICWI. But I am a bit confused about some of the timings of the concessions. The Minister spoke about the concessions not being granted in perpetuity.

When one looks at 2.1:

“ICWI shall be responsible... The first tranche... shall be subscribed and paid up within 365 days of the entry into force of this Agreement. The second tranche...paid up within two years of the latest date for subscription of the first tranche.”

Now if I try to relate the five years to that, does the five years begin on the payment of the first tranche or is it on the payment of the second tranche? And how does that square with something that I see at 4.3 which speaks about ten years? It states:

“Unless otherwise agreed by the parties in writing, the Signatory States and each of them shall not be obliged to extend any or all of the concessions and privileges...beyond ten (10) years from the date of the subscription of the second tranche...”

So I am a bit confused by the Minister saying that it is five years. Firstly I do not know if it is five years from the end of the payment of the first tranche or the end of the second tranche, and now we have this thing about ten years. So that is one thing I hope the Minister can clarify.

And then on page 11 of the document:

“Unless the Signatory States otherwise determine, if the first tranche is not fully subscribed and paid up within the period required by clause 2.1 hereof this Agreement will forthwith terminate.”

So on the one hand you are saying if you do not pay it up on time it will terminate, on the other hand you are reserving this thing unless the signatory states otherwise determine. So there is a built-in cop-out here and a built-in opportunity for ICWI perhaps to exert influence upon the signatory states not to implement the agreement. So I feel that ICWI has really tied up the governments here.

On page 13 of the whole document, 4.2.3, I am not too happy, although the Government is happy with this, with a possibility that seems to exist in this clause.

“The shares of the fund shall be freely transferable both within and outside of the Signatory States to residents and non-residents thereof...”

Does this mean that the Caricom governments are making all these concessions with a view to encouraging Caribbean business and Caribbean businessmen, but it is now opening a back door for non-Caricom people to get into it? So those are the queries I have, Mr. Vice-President, to help me to try to understand this agreement and to see whether I want to support it.

Sen. Philip Marshall: I just need some clarification from the hon. Minister in that I myself cannot quite understand, seeing that this is a private sector fund, and that none of the Caribbean and Caricom governments or the governments of the scheduled territories which are listed are guaranteeing in any way the performance of this fund. In fact, Mr. Vice-President, on page 10, which is the second page of Schedule II which states the main objective of the fund:

“The main thrust of investment by the Fund shall be the encouragement and promotion of projects involving new ventures, business expansion and plant expansion (including divestments and privatization of public sector owned and/or controlled companies, etc., geared towards increasing exports and/or fostering import substitution...”

I just want to remind us all that, if we are talking about a region that is, in fact, Caricom, exports of one country are imports of another, and we have to make sure that we do not have projects being recommended on the basis of exports which are not taking into consideration that, in terms of the total entity, Caricom, it would mean on consolidation you do not have net exports.

So my concern, with the challenges facing the Windward Islands of the bananas, with the challenges facing the financial sector in Jamaica which is absolutely substantial—you know, Mr. Vice-President, the authorities in Jamaica have not managed as well as we have in Trinidad, the banking and financial sectors, where we have bitten the bullet and they have a situation which I think in

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terms of enormity is probably something like six or seven times worse than the situation we had to face. So we have a situation, certainly in that country, of financial sector fundamentals that have not been resolved and where there is, in fact, a Jamaican government agency still grappling with the issue of insurance companies and banks.

The schedule is also silent on what is the scale of fees, and I would really like the Minister to respond in terms of what are the specific benefits from this company in their being chosen as managers of the fund, just to give us clarification. I am not in any way challenging the benefits of such a fund because we had been talking earlier in the Senate about the importance of investment promotion. We have been talking, in our deliberations of the economic situation in Trinidad and Tobago, about the need to export.

So any funding that gives our entrepreneurs the opportunity to upgrade their technology and plant and equipment and provide us with export markets should, in fact, be welcome. I just do not want the Government to fall somehow into a hidden trap where they have blessed a fund and they find themselves somehow guaranteeing the fund in terms of financial performance if the borrowers of the various projects are not able to realize their economic objectives.

One clarification, as I end my contribution, is for the Minister to provide me with some guidance on, I believe it is, Schedule III, Page 28, "Objectives". The last paragraph, or it is just really a long paragraph, but it ends by saying, if I read the last three lines:

"...the objectives of the Original Agreement will, from time to time, be insufficient to provide a competitive return to investors in the Fund."

I cannot understand the use of the word, "insufficient", there, whether it should not be "sufficient". It says that the objectives, reading the whole paragraph, 1.1:

"The objectives of the Caribbean Investment Fund (hereinafter called "the Fund) as described in the Original Agreement shall be extended to permit investment by the Fund of up to a maximum of 40 % of the capital thereof in the countries listed in the Schedule to this Supplemental Agreement, provided that the managers of the Fund, after due consideration, have reasonably concluded that the investment opportunities in the Signatory States as contemplated by the objectives of the Original Agreement will, from time to time, be insufficient to provide a competitive return to investors in the Fund."

Are there any lawyers in the Senate here? So that really is the end of my contribution, Mr. Vice-President. So I would like just those assurances from the hon. Minister. Thank you.

Sen. Muhammad Shabazz: Mr. Vice-President, I have heard all the clinical views about this Bill, how it will work and what are the questions to be asked about it; indeed very clinical. I want to stand up and say first that I think this was brought here with the intention that they know it will not work, that somehow it cannot work. As a matter of fact, this may sound like a joke, but when you could come here and the term ICWI is a main part and the main thing and you do not know the meaning of it, I feel like you just brought this here just so.

What is the meaning of this term? Nobody knows. Nobody might know what it means and everybody just assumes that it means something good, it means something nice, it means something proper, so, "Let us go along with it". I feel on this side we do not want to do that, particularly where this Government, and maybe when I go a little further, where this Minister is concerned. We are not going with that. You have to come here prepared to tell us what ICWI means. He brings a bill with a term and does not know the meaning of it? That sounds like a big joke. But let us move away from that because that might be—or if it is not a big joke it has to be some kind of joke, even if we bring it down to a small joke.

But let us go a little further. We want to know things like, for instance, you have the Caricom bank. You are setting up this fund, you are saying it is a private fund where the people are going to have to put \$50 million into this fund. You are setting up the board. How are you going to raise that money within this time? It seems like it is not practical at all. It seems like within the first time—you say the first tranche has to be done by March 31. That seems as though it cannot happen. I am not going to go away wishing you the best and feeling that it cannot happen. I feel that it would not happen. If you say that it would, you have to tell me how it would, how this group will work, how soon you will set it up to do it by the 31st. So I know when they come with that, they have come, Mr. Vice-President, knowing that it cannot be done at all. That to me is a big joke and another part of the "kicks" in bringing this Bill here at this point in time.

I want to go a little further. In the Bill you have a need. On page 30, section 2.2 on establishment of the fund:

"In the event that the Signatory States determine that the Original Agreement and this Supplemental Agreement should be terminated as

provided in Clause 2(1) hereof the Original Agreement and this Supplemental Agreement shall terminate without ICWI incurring any liability whatsoever to the Signatory States.”

I think that was where they intended to cop out. I think that is where they know that, “We are not going to get this thing working, we are not going to put this thing into play, so we have a clause in case it does not happen. We could say well, look, we tried but it did not happen.” I want to tell this Minister that I think it would not happen.

I want to tell this Minister that the three points, the points that I have brought—and when we look at the records, we look at just the case that Sen. Nafeesa Mohammed spoke about, one, Mexico, the question of the last issue here with the banana thing and your saying one thing and Caricom is saying another thing. That makes me feel that we do not have that kind of confidence. One of the first things you started with was Shiprider. We had a whole different kind—you signed one thing; it seems another thing was signed by other Caricom countries.

5.55 p.m.

You seem not to have this working with the Caricom countries that you talk about, but you seem to be only bringing things that show you are not working in harmony with Caricom in the way that you should. Would this thing go against the Caricom Bank? How would both work? How would you deal with the whole thing? How would it be worked out?

Mr. Vice-President, a point was made here just now. We just had one Bill coming before us, and in that Bill, as far as Caricom was concerned, it was made a foreign body, it was called "foreigner". In the next situation, you came back to talk about Caricom in a different light, as though you are all so nice and good with Caricom. What is your position with Caricom? What, indeed, is this Government's position with Caricom? Let us know it. Let them state it from here! In one situation you want Caricom in a certain way and in the next, you are talking about Caricom differently.

I do not want to bring it up under this point, but one Minister said—and I remember it as cricket is in the air—that it was right not to make Brian Lara the captain of the West Indies team, and two or three days after, he came back and said that it was all right with Brian Lara. Your position is not clear with Caricom.

The introduction of this Bill also tells me that your position is not clear. What seems to be happening on that side is a lot of private opinions and Government opinions. We saw that today: a private opinion on the Back Bench and a Government opinion on the Front Bench, and they seem to be having that constantly. We do not want two types of opinions as far as Caricom is concerned, if we want to foster good relations with our Caricom partners.

Shiprider Agreement, Venezuela, the fishing agreement, look at what you are doing. This Bill that you are bringing seems to be contradictory in a number of ways: whether you would set it up or whether you would raise the \$50 million. I am seeing on page 17 paragraph 10, "Borrowing by the Fund" where it states:

"10.1 Nothing contained in this Agreement shall restrict the Fund's right to borrow money..."

All that is sounding good, but could he honestly tell us—and I am asking the Minister—if he believes that the \$50 million would be raised and that this board would be put together in the time-frame that this Bill would like? If he honestly believes that, let him tell us how. Do not just tell us, "I believe it would happen," without telling us how.

The potential of the investors: where do you intend to get these investors from? Who are the people you are targeting? What is your target market? The fund could be accessed both by the Government and private enterprises. What type of projects would governments of the Caribbean go into? Even when we think of the desalination plant, this \$50 million here might be too small, they might borrow that in one shot, and the fund would finish, because you have a project worth far more than that. I am asking this goodly Minister again to tell us: if he believes this thing could happen, will it happen? Could we do it? With your track record, what is your real position? I think in dealing with this you should state your real position with Caricom? Not only that, but what is the real relationship between you and Caricom, your Government and Caricom, taking into account the way you have been moving over the last three years?

Mr. Vice-President, those are my questions to the Minister, and I hope he would answer them in his winding up.

The Minister of Foreign Affairs (Hon. Ralph Maraj): Thank you, Mr. Vice-President. I am a bit bewildered by the very trite, superficial and often comical contribution made by Sen. Shabazz. [*Laughter*] He clearly provided comic relief to what was a very serious discussion. Clearly, his attempt at analysis

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is not an analysis, but a hodgepodge of ideas and information, attempting to be analytical and searching, really based on ignorance. Because he comes here and he tells me that my position is not clear, and that I am expressing a private opinion. Clearly, that is what he was doing!

His colleague, Sen. Mohammed, spoke very positively about the Bill, and said that they would support it, that it would do well and it is necessary. Now he comes here, as though he was somewhere, lost in space, to say that this Bill would not work and it cannot be done. [*Crosstalk*] [*Laughter*]. He calls it part of the kicks, so where has this gentleman been? [*Interruption*]

Sen. Ramnath: Mr. Vice-President, may I refer the hon. Minister to page 26, where I see the signature of Mr. Manning. [*Laughter*]

Hon. R. Maraj: Well I was coming to that, thank you. He ought to know that his present leader, or one of his leaders [*Desk thumping*]—and look Sen. Mohammed is now bending her head, either she still has a headache or is embarrassed. [*Laughter*] His political leader when he was Prime Minister signed this agreement. He is on record as having praised this agreement as absolutely necessary. [*Interruption*]

Sen. Shabazz: Could you do it in two weeks?

Hon. R. Maraj: The Senator comes here asking me foolish, superficial, trite and inane questions [*Laughter*] based on a hodgepodge of information, seeking to challenge somebody who has had long experience in the field, and knows exactly what he is doing. [*Laughter*] You should know who you are dealing with and challenging in the future, Sen. Shabazz.

He made much ado about the fact that I could not remember the meaning of the acronym "ICWI", (Insurance Company of the West Indies Limited). I just could not remember it! Heads of Governments have approved this! It is a conglomeration of business interests that are involved in financing and funding, based in Jamaica. I simply could not remember the acronym. Can he remember all acronyms? Does he know how many acronyms I have to deal with as the Minister of Foreign Affairs, in the United Nations alone? So that is a big thing? Small minds dwell on small things! [*Desk thumping*] [*Laughter*] He has a big beard clearly, but he has a small mind!

He asked about our position with respect to Caricom. We have made it abundantly clear every month at every ministerial conference and Heads of

Government conference. This Government is absolutely, irrevocably, inextricably committed to the Caricom integration process. We have made that clear over and over. So what is this nonsense about questioning our position with respect to Caricom?

He talked about the fishing agreement with Venezuela. Since the agreement that we signed recently there has not been a single incident in the Gulf of Paria. Where are the incidents? It is working for the first time [*Desk thumping*] because it is a modern fishing agreement based on joint ventures, management of stocks and so forth. So know what you are talking about! Do not talk from memory, and a vague false memory at that, as well. That is enough for Sen. Shabazz. [*Laughter*]

Hon. Senator: "Yuh" give him plenty time!

Hon. R. Maraj: Mr. Vice-President, some other concerns were raised by Sen. Spence I think, about whether there is a contradiction in our policy with respect to tax free status and concessions, and whether we are now signalling that we are changing our incentives, and here we are giving tax-free concessions. I think we are dealing with two different things.

When we talk about changing the regime of incentives, we are dealing mainly with foreign direct investment, investing here in the energy sector in particular. In this instance, you are talking about a pioneering situation, portfolio capital, capital formation and essentially about a novel situation and, therefore, the need to create that environment to give those concessions is there, in order to create the facilitative environment and to make the fund viable.

They were wondering as well about the exclusivity of the funds and whether the CDC does not have some of that. I do not think the two can be compared totally or seen as similar entities. As I said, this fund is going to be focussing mainly on venture capital activity, the new enterprises and also seeking to help in business expansion and with a deliberate objective of spreading around the investment in all the Caricom countries. There are different features anyway.

Sen. Prof. Spence: I appreciate that there are different features, but what I was really wondering was whether there was a conflict. I appreciate that the objectives were different, but I wonder whether the exclusivity clause in this one would create any problems with the CDC investment?

Hon. R. Maraj: No, we are not of that view. We are of the view that there would be debilitating competition in this initial stage if we are to grant the same

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kinds of concessions and incentives to any other regional fund which will emerge. We are saying that because the situation is essentially embryonic, fledgling, and it is a new area we are moving into, we need to give this kind of exclusive status, but for a period of time, not in perpetuity. We are convinced that the period as outlined in the agreement—whether for five years or at the end of five years to review and so forth—is sufficient to take care of the new situation, which in a sense is quite fragile and needs nursing. There is no real intention to cop out. Any side can terminate the agreement if it finds that it is not working in their interest, if the ground rules are being broken or the principles being violated.

The Member asked about a Trinidad and Tobago fund, which is a very legitimate question because the fund does not preclude any individual state establishing its own fund. But Trinidad and Tobago signed this agreement a number of years ago and we are committed to seeing that this fund is established, and we feel that together as an entity we would be more viable and more attractive for investment in this fund.

Sen. Marshall asked a question about Schedule III, No. 1, the "Objectives". What is being looked at here is that under the amendment, the supplemental agreement, there is provision for investment in countries in the wider Caribbean basin. I think you would see it, Colombia, Costa Rica and so forth.

6.10 p.m.

What is envisaged is that, permission for investment by the fund up to a maximum of 40 per cent of the capital thereof in those countries shall be permitted. Whereas, this was not permitted before. But it would only be permitted if the funds are not extended, or used, in the CARICOM countries and that is how I would like to explain that, and I hope that satisfies you.

Sen. Marshall: Thank you.

Hon. R. Maraj: My dear friend Sen. Nafeesa Mohammed. You started off by complaining about my haste, and my speed.

Sen. Mohammed: And your passion.

Hon. R. Maraj: And my passion. I hope nobody would ever complain about my passion, because it is good to be energetic and passionate. I am sure everybody here will agree with that. I am sure even Sen. Williams is smiling. How can a man be a man without being energetic and passionate. [*Desk thumping*]

So, I hope you will tolerate me in the future. You spoke about the need for Panadol and the headache and so on. I would recommend my good friend Sen. Jagmohan to whisper those soothing things, which will act as a Panadol, I am sure he is quite capable of that.

Seriously, you did say you had no objection to the purpose and intention of the Bill, and I thank you for it. You are wondering where the resources will come from, how ICWI would raise the resources—and incidentally, ICWI means, Insurance Company of the West Indies Limited. That is the meaning of ICWI.

The fact is, they are free to raise the money locally, and externally; and somebody asked the question whether we were going to allow foreigners now to participate in this thing. The question is, as I said before, this is a new situation, capital formation is not something that has taken place in the Caribbean in any very real way at the wide Caribbean level; and so, to start up a fund like this, you would want to go into external funding.

In any case, in the liberalized environment that you are in, to prevent external participation in such a fund would question the credibility of the fund and its mechanisms. You wondered about the Board of Directors. Well, I think I answered that. I told you that would be appointed by the ICWI and by the fund with no intervention from the Government, but we would want to ensure that there is Caribbean representation; and I also tried to differentiate between the Board of Directors and the Advisory Board.

The Advisory Board would be a board made up of Caribbean governments interest with the signatory states having at least seven positions on the board to look at, and monitor the operation of the fund.

You wondered where we were with the single market and the economy—well, all I can tell you my dear, is that we are going all right, we are going well. We are amending various protocols with every Heads of Government Conference; we amend the various protocols which will help to liberalize the whole regime and move in the direction of the single market and the economy. So, things are going very fine.

With respect to the CARICOM integration process. You wondered what we were doing in Panama. I would like to inform you that the hon. Prime Minister signed a framework agreement for the establishment of a free trade agreement between Panama and Trinidad and Tobago; because as you would agree, market access is critical to the long-term viability of the economy of Trinidad and

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Tobago. We need market access, we have a manufacturing sector that is buoyant and gung-ho, the domestic market; and the CARICOM market is no longer sufficient for them, because they are doing well.

So, we are negotiating free trade agreements with the Dominican Republic, Costa Rica, Panama, expanding the market; because when we expand the market we create employment at home. We made it very clear, that there is no contradiction between our position on the banana issue and CARICOM. We have made it over and over abundantly clear, Trinidad and Tobago has an interest in the viability of the banana economies of the Caribbean. It is not only a question of solidarity, though it is that. It is solidarity, but it is more than that. It is our own self-interest, because if those economies go down, we go down too. If we lose the purchasing power of the banana producing countries, there would be significant unemployment at home; we know that, we understand that and we must support them.

Let me debunk any idea that because of the unilateralism of the United States with respect to the European banana regime that there is some decision on the part of CARICOM to suspend relations with the United States—that is an absurdity. There was no such decision.

The Heads of Government in Suriname—and you asked about Suriname: we took a decision that we would condemn the United States for its unilateralism. We deplore it. We see it as undermining the multilateral spirit that we are trying to achieve in a new global trading order, a new global economic environment. We condemn them for it. But, at the same time we are saying we must leave the door open for dialogue. We must look again at the Bridgetown agreement to determine a basis for going forward in the light of that unilateral action. So that there is no attempt, or any question at all of renegeing on the Bridgetown accord. So, I want to make that position very clear.

Sen. Mohammed: What about the CARICOM Skills Bill?

Hon. R. Maraj: Oh, the Caricom Skills Bill, that will be returning to Parliament very soon, because there is the need to make certain adjustments to it, and that will be returning. It has now been passed to the Cabinet, the Cabinet is looking at that again, and we will be coming back with that very soon.

Mr. Vice-President, I thank you.

Sen. Prof. Ramchand: Please clarify the thing about the five years and the ten years.

Hon. R. Maraj: Yes. What were you referring to again? I was a bit derailed.

Sen. Prof. Ramchand: The Minister said in his contribution Mr. Vice-President, that the thing was not in perpetuity, that the concessions will be granted for a period of five years. But then I saw on page 15, item 4(3) it says:

“Unless otherwise agreed by the parties in writing the Signatory States and each of them shall not be obliged to extend any or all of the concessions and privileges which they are obliged to grant to the fund beyond the ten years from the date of the subscription of the second tranche”.

Hon. R. Maraj: Thank you, Mr. Vice-President, I am sorry for not attending to that. The five years refers to the exclusivity which insists, and demands, that the Caribbean States do not grant the same conditions and so on to another fund. That is the five years. The ten years has to do with the tax concessions themselves. That is the difference between the two.

Sen. Shabazz: Mr. Vice-President, I still want to ask, what is your hope for the two weeks, for this thing to be set up within two weeks' time, and if it is not set up in two weeks' time, what is the possibility beyond that?

Hon. R. Maraj: That question was asked. Let me say the ICWI is aware that there is competition for this fund. They are aware that it is competition. The ICWI also is aware that the governments have stretched their hands quite a bit to accommodate their being able to generate and finance the fund. We are convinced that they will come up to scratch; but if they do not, Mr. Vice President, there are other options that are available to the CARICOM governments, because there are other people knocking on the door to deal with this particular matter.

Sen. Prof. Ramchand: The ICWI—although the Minister does not have the information at hand, would he be able to circulate at a later time some more details about the ICWI?

6.20 p.m.

Hon. R. Maraj: As I said, the ICWI (The Insurance Company of the West Indies Limited) is involved in financing, and it has been deemed to be the company suitable to handle this assignment, but we will present more details to you. You would certainly get the document in this honourable Senate.

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Mr. Vice-President, I would like to thank hon. Members for their contributions and their support to this debate. It turned out to be quite a lively debate.

I beg to move.

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, just a procedural motion. In accordance with Standing Order 9:08, I beg to move that the Senate continue to sit until the conclusion of the matter now before it, as well as Bill No. 3. on the Order Paper.

Question put and agreed to.

CARIBBEAN INVESTMENT FUND BILL

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clauses 1 to 7 ordered to stand part of the Bill.

Schedules I to III ordered to stand part of the Bill.

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

Senate resumed.

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

EVIDENCE (AMDT.) BILL

Order for second reading read.

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): Mr. Vice-President, I beg to move,

That a Bill to amend the Evidence Act, Chap, 7:02, be now read a second time.

The Bill before this honourable Senate proposes an amendment to section 19 of the Evidence Act, Chap. 7:02. The amendment provides for the inclusion of the following positions on the list of persons named therein as government experts:

- (1) Forensic Document Examiner;
- (2) Forensic Biologist;
- (3) Scientific Examiner (Motor Vehicles);

These three positions all relate to the Trinidad and Tobago Forensic Science Centre.

The current situation is that the Trinidad and Tobago Forensic Science Centre was established in 1983 to provide the required scientific support to those Government agencies responsible for the investigation of crime and the administration of justice.

Its technical operations include: the provision of forensic science services such as the identification of illicit drugs in seized material and the screening of blood and urine for narcotics and psychotropic substances; the restoration of erased identification numbers, for example, chassis and engine numbers of motor vehicles, comparison of handwriting, typewriting and detection of alterations on documents; identification of devices as firearms and ammunition; identification of cutting instruments and other tools from examination of tool marks and estimation of firing distance in shooting cases.

6.30 p.m.

Mr. Vice-President, during the 16 years or so of its existence, the Trinidad and Tobago Forensic Science Centre, developed a reputation of being the best in the region and demands for its services increased by about 10 per cent per annum. Moreover, clients are requesting a whole new range of services to be provided by the centre. For example, the police service is now requesting that tests be carried out on murder victims to determine the presence of drug abuse.

On the other hand, the Trinidad and Tobago Forensic Science Centre has been unable to attract and retain suitably qualified staff in its various sections and, as a consequence, has been suffering from severe shortage in its scientific and professional staff in sections which include: Document Examination, Forensic Biology and Scientific Examination of Vehicles.

Mr. Vice-President, with respect to the forensic examination of motor vehicles in this discipline, in order to address the backlog of stolen vehicles detained by the police service and which were awaiting examination, the acquisition of this training has greatly assisted the police in their capacity to conduct on-the-spot evaluations regarding stolen vehicles. Two main methods are used to determine whether a vehicle is stolen and to identify the lawful owner. They are:

- (a) ascertaining whether engine and chassis numbers have been tampered with; and
- (b) ascertaining whether paint has been changed.

The police officers started training in 1996, Mr. Vice-President, because of their limitations and their restricted training their role was not as complete as the role of the Scientific Officer in the Forensic Science Centre, because they were not able to detect erased numbers on the engine and chassis, or be able to do the paint analysis to determine whether the paint was altered.

In addition, these police officers are not treated as expert witnesses by the courts. The general view is that their experience and training is still too recent for them to be regarded as experts. They, however, continue to render great assistance in reducing the number of vehicles awaiting examination, since their examination of engine and chassis numbers is being done at the rate of approximately nine vehicles per week.

The situation that existed before this, Mr. Vice-President, was that every vehicle that was seized or every vehicle that was recovered that had been stolen could only be tested at the Forensic Science Centre. Now we have two levels of testing; one by the police where if the numbers are easily identifiable the vehicles are returned to their owners. On the other hand, where the numbers have been erased or tampered with, we still need to send them to the Forensic Science Centre.

In the context of problems relating to the persistent shortage of qualified staff; and increased demand for a wider variety of services; the Trinidad and Tobago Forensic Science Centre began exploring the possibility of training scientific personnel in the performance of core duties in the various sections. For example, it was envisaged that Scientific Officers could be trained to perform the duties in the Document Examination and Forensic Biology Sections and also, the Scientific Examination of Motor Vehicles.

In 1996, Cabinet agreed, on the recommendations of the Minister of National Security, to certain staffing proposals for the Trinidad and Tobago Forensic Science Centre. Instead of increasing the staff establishment, that is instead of increasing the public service establishment, Cabinet agreed to the employment on contract of the following:

- a) two junior scientific officers to undergo a two-year training programme in Document Examination;
- b) two junior Scientific Officers to undergo a one-year training programme in Forensic Biology; and

- c) two Scientific Examiners (Motor Vehicles), to undergo the appropriate training course.

The recruitment and training phases of the exercise with respect to Scientific Examiners (Motor Vehicles) has been successfully completed. Further, the two officers are now engaged in the examination of stolen motor vehicles and have already begun issuing Certificates of Analysis.

The posts of Forensic Document Examiner and Forensic Biologist have not yet been filled. In the case of the Forensic Document Examiner, the incumbent of this post is expected to deal with investigation of a variety of documents and currency in cases where forgery and/or tampering is suspected. In addition, the Forensic Biologist will be required to handle cases involving rapes, murders, homicides and woundings, through the performance of a wide variety of tests, including the determination of blood groups, categorization of blood samples received, the blood analysis of body tissue, body hairs, seminal fluid and so forth.

By filling these new contractual positions, Mr. Vice-President, suitably trained officers will be available to relieve the demands now placed on the Scientific Officers I who perform these duties at present. In effect, the work is being done, but it is putting a strain on the existing members of staff.

It is obvious, therefore, that the nature of the duties performed by these officers and the use to which the results of their analyses will be put, suggest that these officers qualify to be considered as government experts for the purposes of section 19 of the Act. However, this cannot be achieved without first effecting the proposed amendment.

The Evidence Act, Chap 7:02, is described by its long title as being 'an Act relating to the Law of Evidence'. Of necessity, the Act, therefore, addresses the nature, quality and quantity of evidence admissible in the courts of Trinidad and Tobago in support and rebuttal of litigious claims. The Act also describes the requirements for witnesses whose oral evidence will be accepted by the courts.

Section 19 of the Evidence Act facilitates the admission of official documents prepared by designated government experts into evidence in criminal proceedings. The relevant portion of section 19, is the section that will be affected by this amendment.

Section 19 dictates that where it is sought to admit a document into evidence in proceedings:

- i) the document must be a certificate or a report; and

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- ii) the subject matter to which the certificate or report relates must have been submitted to the maker for examination, analysis or report.

The section states that once these requirements have been met and the certificate or report is admissible as evidence of the facts stated in it—Mr. Vice-President, I would like to briefly quote that section of the Act, Chap. 7:02, section 19(2):

“In any criminal proceeding any document purporting to be a certificate or report under the hand of a Government expert on any matter or thing which has been submitted to him for examination, analysis or report is admissible as evidence of the facts stated in it without proof of the signature or appointment of the Government expert, unless the Court...The Court is not bound to require the attendance of the expert as a witness if the Court is of the opinion that the request for such attendance is made for the purpose of vexation, delay or defeating the ends of justice.”

So, in effect, Mr. Vice-President, while these scientists can go to court and give evidence now, what we are trying to avoid is the time they would be spending giving evidence in court, whereby if we add them to the list of experts the certificates they tender would be accepted as sufficient evidence.

The section also expressly removes the obligation of a court of law to require the attendance of such an expert as a witness, where the court feels that a request before it to do so, is for the purpose of vexation, delay or defeating the ends of justice, as quoted. This is of great convenience since the makers of the documents are in general, required to give evidence concerning the making of the documents themselves before they are admitted into evidence.

So, like the other experts, who are listed in section 19, these three categories: the Forensic Document Examiner, the Forensic Biologist and the Scientific Examiner, it is the intention, Mr. Vice-President, to have these three categories added to the list of government experts that are in section 19.

Section 19 (4) specifies the public officers considered to be government experts for the purpose of the section, and also reserves a discretion for the President of the Republic to add other established positions to the list.

This is an area on which I would develop as I go along, Mr. Vice-President, because the feeling is that since the section says that the holder of any office declared by the President by notification published in the *Gazette*, is an officer to

which this section applies, this section gives His Excellency, the President, the right to add whomsoever we want. Without this amendment, all the formal requirements must be followed before the certificates can be tendered by the government experts and this would directly contradict the original intention of reducing the backlog before the courts.

The point that has come out here is that because these posts are not public service posts, and they would be filled through contracts, the section in its present form does not give His Excellency, the President, the right to add these people to the list. Hence the reason we are taking this line.

6.40 p.m.

I say thank you for the observation made by Sen. Prof. Spence. This matter again came up concerning how one would go about dealing with other categories of experts, should other categories develop in the work being done by the Forensic Science Centre. I would circulate an amendment which would satisfy that query.

I express my thanks to Sen. Prof. Spence for not only making the observation, but suggesting a solution to avoid these contract positions having to return to Parliament, but rather, include them under the ambit of what the President is permitted to do so that in future, if any new positions be added to the experts in the Forensic Science Centre under what would be now section (h), those positions can be declared by the President by notification published in the *Gazette*. At the committee stage, I would explain how the amendment would work.

The Bill is therefore now being presented to this honourable Senate so that the Trinidad and Tobago Forensic Science Centre can then benefit fully from the investment being made in training its staff.

I would mention that the Forensic Science Centre not only performs analysis and submits reports for Trinidad and Tobago, but it has also been declared a training centre for the Caribbean. Between 1992 and 1998, 17 chemists from the region were trained and it is expected that five more would be trained by the end of 1999. Cabinet had agreed in 1991, that the Government of Trinidad and Tobago should formally accept the proposal that the Trinidad and Tobago Forensic Science Centre serve on behalf of the United Nations' international drug control programme as the training centre for the Caribbean region in the analysis of controlled drugs. So the expertise that resides in our Forensic Science Centre is not limited to activities in Trinidad and Tobago, but we provide services throughout the region and also training for the chemists in the region.

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Mr. Vice-President, I trust that this amendment would add to the trained staff, and also give the Forensic Science Centre the opportunity to recruit adequately trained personnel from the local community to fill these vacancies. We have been having problems in filling the vacancies as public service posts. Salary and getting suitable candidates was a problem. We trust that through a contract, the terms of which would be negotiated with the Chief Personnel Officer, the suitable trained personnel would be entering the Forensic Science Centre and would receive further training. We are now caught between certain training being done abroad or locally, we are negotiating with the Document Examiner to have the experts come here and perhaps train more document examiners rather than have one person go abroad. The idea is to increase and improve the competence of the work at the Forensic Science Centre.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. Vice-President, it is late and it is a short Bill so I would try to be very short. It would appear that the objective of this Bill is to provide mechanisms to assist the Government and its agencies in solving crimes, and certainly that is an objective with which we on this side have no quarrel or difficulty.

I do have one or two problems with the legislation as it stands. We all know of the difficulties which have arisen as a result of the Brad Boyce trial and the problems surrounding the qualifications of the pathologist who examined the body in that situation, and in section 19(4) of the Act it says:

“In this section—

‘Government expert’ means the following public officers:

- (a) Senior Pathologists;
- (b) Pathologist;
- (c) Government Chemist;
- (e) the holder of any other office declared by the President by Notification published in the *Gazette* to be an officer to which this section applies;”

The difficulty that struck me when I read this was that we have no definitions of what these posts are. They are not in this Bill and they are nowhere to be found in the parent legislation so I think we are probably headed for deep waters when these so-called Government experts sign the documents that would be used in a

court of law. The first question any lawyer would ask is: Who are these persons, and what are their qualifications? What entitles them to be an expert? The fact that the Government says that you are an expert, does that make you an expert? What is the standard to be used here?

I had hoped that the Minister would say something about that, but he has not said anything about it and that seems to be an issue. Not that I have any difficulty with the establishment of the post, but could I be hired as a forensic document examiner? I am a chartered accountant. I do not know very much about the forensic examination of documents, although in a certain context I could be used as a forensic document examiner if it involves certain accounting matters.

Mr. Vice-President, it begs the question what are the qualifications that are necessary here? Because it seems to me in the Brad Boyce matter, at least there was an independent agency such as the Medical Board that was consulted and said that Dr. Des Vignes was not a forensic pathologist, but is there anybody in this country who could question who or what a forensic document examiner is, or what a forensic biologist is? What is the standard? Where is the barrier and at what height is the barrier? It seems to me that we have to deal with that issue, or everything that comes before the court is going to be shut down in the way in which the Brad Boyce prosecution was shut down and I think they are in for serious difficulty there.

Mr. Vice-President, we are talking about the solving of crimes and making sure that prosecutions are effected and guilty persons are not only brought to trial but convicted. In that regard, the Government has failed in its mandate over the past three years. I have said over and over again what is needed is more than just law, we need forensic detection work at the level of the police service, and I can suggest a number of instances where there were failures in the Clint Huggins murder but there was no evidence found that could trace anybody back and when the FBI were brought down, they said, the Minister had already admitted that the police themselves had contaminated the crime scene.

Another situation is when two years ago my cousin Monty was kidnapped and murdered. That kidnapping, according to the police statistics has been solved because they found the body, but they had not found the person who committed the murder. I cannot see that case as being solved, although according to the police statistics, it has been solved. It has not been solved, but the police have a certain story they say they know what is going on, but I can tell you that in that case, some of the most basic elementary procedures were not done. Some of the

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persons who were on the periphery of the matter should have been asked certain questions and their telephone records should have been investigated and I know it was not done because I asked the police if they had done that, and they said no.

Mr. Vice-President, with all due respect, these laws are not going to solve that kind of incompetence. There is a situation where in the Ramdhanie escape, as yet there is no prosecution and the Director of Public Prosecutions has indicated that not sufficient quality evidence has been brought forward by the police to enable a prosecution. We are passing law, after law, after law, when the fundamentals of police management have been ignored. Crime is escalating, and everytime we turn around we are seeing murders and murders and the fundamentals of police management are escaping us.

It goes even so far as the traffic manager. The courts indicate that road deaths are up by 44 per cent and the Minister of Works and Transport says it is not his problem, it is not a question of the road. Mr. Vice-President, I think if the roads, especially the priority bus route, were properly lit, that would solve some of the problems. Of course, the issue is one of policing the traffic and it is one of management. Somebody has to do something. The management of the roads in terms of the traffic can and should be a revenue-generating matter for the Government. It is in every developed country and yet, somehow, we cannot have that here. With accidents happening at an alarming rate and the literal banditry taking place in certain areas there is an absence of the police force. That is a question of management. It is a question of leadership and there is obviously a complete vacancy on the part of the Government in terms of the leadership and management of the police service.

It is not enough to come with a Bill that is obviously necessary and we can support the idea of establishing these positions, but it begs the question: What is a forensic document examiner? Tell us what it is and give us the assurance that when these persons send their reports to the coroner that their qualifications are not going to be shot down. In fact, the evidence they provide is going to do the job that it was intended to do. We have not heard that at all, and that is absolutely necessary.

Mr. Vice-President, I said I would be short so I think I would stop here.

Sen. Prof. John Spence: Mr. Vice-President, I ask the Minister if there has been any progress in the setting up of a test tube laboratory, with the President being able to accommodate in future DNA specialists who might be appointed?

6.55 p.m.

Sen. Joan Yuille-Williams: Mr. President, before the hon. Minister responds, I just want to ask a question—indeed it is something which my colleague had said before. I have found out that you have already employed the Scientific Examiner, you have already filled that vacancy of Scientific Examiner Motor Vehicles. I would like to find out from you, how you did it? Was there an advertisement with a qualification list or something? I think that is what we are trying to get. Was there a stated qualification that a Scientific Examiner must possess A,B,C,D,E?

Similarly, there are the other two posts to be filled. Are we going to say that the Forensic Document Examiner must have a university degree, or whatever, added to it? I think it is important here, because of what happened the last time. The problem arose from the fact that people were not clear how the qualification was attained, or what comprised the qualification. There were some courses in forensic work, or whatever, which were done and which gave the qualification for forensic pathologist and apparently that additional qualification was not accepted by the Medical Board, and from the time you say anything “forensic” now, you will understand what I mean. So I want to know.

We already have Document Examiner which is another matter. At the moment that is in the public service. Now you have a Forensic Document Examiner. I am wondering whether it is the same qualification or some additional work done with these persons to qualify them for this. So, what we are really asking for is the specific qualification. I do not know where it should have gone; it has to be placed somewhere, and it is something that we will follow at all times. We are arranging it so that additional contract positions could be adhered to, without coming back to Parliament. But if they come with different titles where will the qualifications for those people be placed? We want these matters to stand up in court because we could lose many of our cases if we do not have them. So, I am still worried about it, although, I think, we can do something like this that would not have to come back to Parliament. But what is also needed is where to put the qualifications so that someone will know how to become a forensic biologist.

Sen. Prof. Spence: Mr. Vice-President I just want to make it clear, is the hon. Senator suggesting that the legislation should state qualifications?

Sen. Yuille-Williams: I am not saying where it should be, but I am saying, with my limited knowledge, it should be somewhere so people would know what qualifies a person to become a Forensic Document Examiner, or Forensic

Pathologist. No, I am not saying it is necessary in the legislation; it is nowhere now. I am also saying that when the advertisements for these posts are sent out, they must state the qualifications. I am also saying that for any new post added, qualifications should also be attached. Not necessarily in the legislation.

In fact, my understanding is, the Forensic Document Examiner is a title for a similar position almost, in the public service, whether that is true or not. You might not want to use the same title, so that you do not conflict with the post in the public service; you might use this title here. Since this is a new title that we are bringing in, I am hoping that we could just see the qualification because, I think it is really important at this time because we have gone through a couple months going over qualifications because of certain titles. I do not think that we will want to start that up again, particularly, when mistakes like these could mean that people who are criminals could be set free by any astute legal mind, and I think we need to prepare ourselves for that.*[Desk thumping]*

The Minister of National Security (Sen. Brig. The Hon. Joseph Theodore): I thought I would wait because, I will include it in my winding up, as similar concerns were expressed by Senator Montano. I appreciate Sen. Montano's concern and it is fully accepted. I can see his concern about specialized training for scientists and, perhaps, the police being ignored.

The police have done much work since the Clint Huggins issue and I was aware, as you were, that the crime scene was contaminated. Since then I am aware that the police received kits. They are observing certain types of behaviour where everybody does not examine the crime scene out of pure curiosity, but the investigating officers are the only ones who should be near a crime scene. I am aware that this is being done. The CID do follow a pattern and, as the Senator would recall when we were on the same committee dealing with the DNA Bill, we questioned the police, quite extensively, about the presence of the people from the forensic science centre where there may be any difficult cases and the evidence and samples may be difficult for the police to collect. So there is support from the Forensic Science Centre at certain crime scenes. As a matter of fact, it is contained in the duties that some of these officers have to perform.

With respect to the qualifications, the forensic science centre has the qualifications the people they want should possess. They also prescribed the training they should undertake. As I mentioned in my presentation, there were even discussions about the Document Examiner, whether he should be trained

abroad or have the trainers come here, because we do not possess that expertise in abundance in Trinidad and Tobago. There is a big difference between somebody who can do something and someone who can train somebody to do it. I can say with assurance that all these people referred to must be university graduates and I think all of them should possess a science degree. I cannot say I have seen the advertisement—sorry, I do not have it here. I do not think it was necessary, but the standards are set.

Mr. Vice-President, the other question is, what is the job specification? The job specification is really determined by what the person is asked to do. For instance, I pointed out that in the case of the Forensic Document Examiner, the incumbent of this post is expected to deal with investigations of a variety of documents in cases where forgery and/or tampering is suspected. So that tells us what we are hiring the person to do.

Sen. Montano: I understand what you are saying, but the problem really goes—as far as the Government was concerned, I think it was the last administration, I do not know if it was yours. I am not sure who it was. They were satisfied that he was qualified. You are on record in Parliament as saying, he is as far as we are concerned a qualified Forensic Pathologist, but the Medical Association....

Sen. Brig. The Hon. J. Theodore: That is where the problem lies.

Sen. D. Montano: Well that really is the question. You are saying that he is qualified and the Medical Association is saying he is not qualified. Who is the Medical Association in this matter and who is it that is going to determine who is qualified for what? That really is the question. How do we really resolve it—not only the Des Vignes issue, but to make sure that we do not have a Des Vignes issue arising with these three posts?

Sen. Brig. The Hon. J. Theodore: I thank the Senator for his observation. Mr. Vice-President, as you know there is an issue that Dr. Des Vignes has taken up with the Medical Board, but since you mentioned my contribution in another place I would just like to clear the air. I was very careful in my choice of words and I said: that there are “two specialist officers” employed with the Forensic Science Centre on contract.

7.05 p.m.

At the end of my contribution—the very last sentence—I said that positive steps are being taken to ensure that the Forensic Science Centre is suitably and

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adequately staffed and the persons so employed are adequately and properly qualified. Now under the last Cabinet, Dr. Des Vignes was hired as a pathologist, and I am advised that a pathologist can do all the things that a person who refers to himself as a forensic pathologist can do. The point was that regardless of what one describes Dr. Des Vignes as, I am very satisfied that the qualifications he possesses make him eligible to perform the duties for which he has been hired. So, I think the play on words will be sorted out at the appropriate place, but the temptation was that because we are talking forensic pathology, people assume that he should be referred to as a forensic pathologist, but he was hired as a pathologist.

Mr. Vice-President, I will just quote an opinion I got from the Ministry of Health.:

“Forensic pathology is a sub-specialty, so that once one is a pathologist and is recognized as such, there may be no need for separate identification as a forensic pathologist.”

It is all very technical. What I have been insisting on is that the person so hired has been doing it for three years, and I am hoping that with time the matter will sort out itself. I try to avoid calling him a forensic pathologist because I knew at the outset that was the problem. The newspapers said I did.

Sen. Montano: I understand the Senator, but the point is still, what he said was that in effect, he and the Government are satisfied that Dr. Des Vignes is qualified for the job for which he was hired. That is the point. The court has said otherwise. How does that become resolved in a situation like this?

Sen. Brig. The Hon J. Theodore: Mr. Vice-President, I will not prolong this argument. I understand what the Senator is saying. I have asked myself the same question and I have drawn my conclusions. I do not intend to discuss the matter any further and I am sure that the course being taken by the doctor will bring all the problems out and let us all know what is what and who is who. Mr. Vice-President, I would prefer not to go too deep. I understand the concern; I too am concerned. That is why I insist on speaking the way I do and not suggest that one call himself anything or something else.

For what it is worth, I would like to go ahead and deal with the point raised by Sen. Yuille-Williams which, again, was with the different titles. In the amendment

that I have circulated, one would see under what would be (h) where the amendment is saying “including or any other suitably qualified and experienced person”. So, again, the nature of the job will determine the qualification that one should possess to perform the function. She asked about different titles and how the qualifications were to be placed. I did not see the qualifications as being part of an Act, but they are contained in the Forensic Science Centre. As I said, I am sorry I do not have a copy of the advertisement with me.

Again, as I mentioned earlier, the problem with the police moving on to do the scientific examination of the vehicles came about because they did not have degrees. I did not say degrees, but I said because of their limited qualifications and experience. They are doing the basic things that you and I could do. Treat the part and see the number. But many of those basic functions were sent to the laboratory in the past. So, we have eased off the backlog that had to go through the Forensic Science Centre and left the more technical work to the qualified people.

Sen. Mohammed: This is just by way of clarification. If my memory serves me right, some time last year I remember reading that your colleague, the hon. Minister of Public Administration, had indicated that the gentleman we were discussing a while ago was, in fact, going to be employed in two weeks’ time at the Forensic Science Centre. I just need to get some clarification on that issue, and this has nothing to do with any matter that is pending in court.

Sen. Brig. The Hon. J. Theodore: Mr. Vice-President, I made a comment that I too have been caught with trying to forecast when things would be done. Remember the prison where we had several dates for opening? At the time, it may have seemed as though the matter could be resolved, but as one would appreciate, it is still ongoing. I sort of refuse to even suggest when the other doctor located in Tobago will have her contract awarded because the matter is being dealt with by the CPO’s department. It is a matter of negotiations. So, again, I think it is quite reasonable that the expected time could have been mistakenly anticipated and it did not happen. The intention is not to make any such forecast again.

Sen. Prof. Spence did talk about the DNA laboratory, and equipment-wise, I believe most of the equipment that is necessary has been acquired. A certain amount of training has been done. The point raised by Sen. Prof. Spence has to do with this very amendment which deals with any other suitably qualified and experienced person. It could be a consultant from abroad who will come here, maybe to perform a certain procedure or, as Sen. Montano knows, there will even be a committee overseeing the performance of the centre. So, suitably qualified

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people will be covered by this. Simply to have somebody come to Trinidad to perform a procedure would have meant, under the original Act, another journey to Parliament.

The intention was certainly never to slip in unqualified people because they would have a difficulty, particularly in the scientific world, to perform any experiment or procedure they should not. I am glad for the observation, I am glad for the suggestions and I am also very grateful that the issue that arose in another place is not being carried on at any length here. The matter will be resolved in due course. I am quite happy we have stuck quite closely to the terms of the Bill at hand.

For all that is taken, I want to give the assurance that the police are being trained and this whole issue of the crime scene has been addressed, but the Bill before us today deals with scientists and their ability to, first of all, have the qualified people come in, which is the key to this whole issue. To wait for people to be identified and brought in at a certain salary scale is something that we are having problems with. In fact, there are even a couple positions in the Forensic Science Centre—I think I mentioned it in this Senate before—which we requested be put before the Salaries Review Commission so that they would be given a salary in keeping with their professional qualifications. These are the senior people.

Basically, I trust that I have been able to answer their queries. As I said, the mere fact that the Forensic Science Centre is suggesting, or has identified the duties and the jobs these people are to perform, the people who are being recruited are holders of university degrees in science, and where training cannot be done locally, we will source the training abroad. We are also hoping, as I said earlier, in the case of the document examiner, to have experts come down here and assist our people. The necessary equipment is being purchased; for instance, to do work with the armourer dealing with gunshots and identifying weapons that may have been used in crimes.

I believe Sen. Montano said we wanted effective prosecution. This is a way of getting effective prosecution. I know he is concerned with using the scientific tools at our disposal more readily rather than simply evidence and statements, and I certainly trust we will be able to continue heading in this direction more quickly so that we will use the technology that is available out there and give our prosecutors a better chance of getting convictions and putting some of these criminals away.

Mr. President, I beg to move.

Question put and agreed to.

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Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed.

Brig. Theodore: Mr. President, I wish to amend clause 2 as follows:

“Add a new paragraph “(c)” as follows:

‘(c) inserting after the word “office” in paragraph (h) as relettered, the words “or any other suitably qualified and experienced person” and by inserting after the word ‘officer’, the words ‘or person’.’”

Question put and agreed to.

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

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

Senate resumed.

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

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, before moving to have the Senate adjourned to Tuesday March 23, I just want to deal with what Sen. Montano referred to as management of matters. We want to manage our business here very carefully, and in this regard, I wish to indicate that seeing that March 30, which is the following Tuesday, is a public holiday, we want to make sure that our agenda continues to run smoothly in terms of trying to diminish some of the matters we have here. As such, we want to serve notice that seeing that next Tuesday is Private Members’ Day, we may have to sit on Thursday at 1.30 p.m. in an effort to ensure that we keep our agenda flowing very smoothly.

We have a number of Bills coming from the other place very shortly and we do not want to bring our Senators out twice a week on a regular basis. Seeing that the following Tuesday is a public holiday, I am serving notice on my colleagues

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that we may have to meet on Thursday for a few hours just to tidy up. I am just serving notice. So, Tuesday is "Private Members' Day" and Thursday would be "Government Business".

Mr. Vice-President, Hon. Senators would like to know the order of business. We are going to continue with Bill No. 4, the Investment Promotion Bill; we will then go on to Bill No. 5, the Criminal Injuries Compensation Bill; and we will commence debate on the Trinidad and Tobago National Steel Orchestra Bill; and then we will continue as is stated here. If there are changes, I will contact my colleagues and let them know. Mr. Vice-President, I have been informed that there are some sandwiches available for my colleagues just in case they feel a little peckish.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.22 p.m.