

Season's Greetings

Tuesday, January 25, 2000

SENATE

Tuesday, January 25, 2000

The Senate met at 10.32 a.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

SEASON'S GREETINGS

Mr. President: Hon. Members, I have received a letter dated December 22, 1999, which was received on Friday, from the Tobago House of Assembly:

“The Clerk of the Senate,
Red House,
Port of Spain,
Trinidad

Dear Madam,

The Tobago House of Assembly (1996—2000) at its Plenary Sitting (Fifty-first Meeting) held in the Tobago House of Assembly Chamber on Tuesday December 21st, 1999 by resolve, directed that the Season's Greetings for a Blessed Christmas and a Happy New Year be extended to the President and other members of the Senate and their families.

Yours faithfully,

s/ Acting Clerk of the Assembly.”

I have instructed the Clerk of the Senate to send a letter reciprocating the kind sentiments contained in their letter, though belatedly. [*Desk thumping*]

JOINT SELECT COMMITTEE

(Children's Authority Bill and Others)

Mr. President: Hon. Senators, I have received a letter from the Hon. Hector McClean, MP, Speaker of the House of Representatives dated January 24, 2000.

“Senator the Hon. Ganace Ramdial
President of the Senate
Parliament
The Red House
Abercromby Street
Port of Spain.

Dear Mr. President,

Joint Select Committee
[MR. PRESIDENT]

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Appointment of Joint Select Committee

At a sitting held on Friday January 14, 2000, the House of Representatives agreed to the following resolutions:

‘**BE IT RESOLVED** that a Joint Select Committee be appointed to consider and report within three months, on the Bills entitled:

An Act to establish a Children's Authority of Trinidad and Tobago to act as the guardian of the children of Trinidad and Tobago.

An Act to make provision for the monitoring, licensing and regulating of community residences, foster homes and nurseries in Trinidad and Tobago.

An Act to amend certain laws affecting children.

An Act to make provision for the regulation of procedures governing the adoption of children and to give effect to the International Convention on the rights of the Child, 1990.

An Act to amend the Children Act, Chap. 46:01.’

Immediately thereafter, the House agreed as follows:

‘that the following Members be appointed to serve with an equal number from the Senate on the Joint Select Committee appointed to consider and report on the Children’s Authority Bill, 1999 and others:

Mr. Ramesh Lawrence Maharaj

Mr. Harry Partap

Mr. Manohar Ramsaran

Dr. Fuad Khan

Mr. Fitzgerald Hinds

Mr. Roger Boynes’

These resolutions are accordingly forwarded for the information of the Senate.

Yours sincerely,

s/ Hon. Hector McClean, MP

Speaker of the House of Representatives”

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, at a later stage of the proceedings, I shall seek leave of the Senate to address the matter.

EDUCATION (AMDT.) (NO. 2) BILL

Bill to amend the Education Act, Chap. 39:01, brought from the House of Representatives [*The Minister of Education*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate.
[*Hon. W. Mark*]

Question put and agreed to.

FINANCE (VARIATION OF APPROPRIATION 1998/1999) BILL

Bill to supplement and vary the appropriation of the sum of the issue of which was authorized by the Appropriation Act, 1998/1999, brought from the House of Representatives [*The Minister of Finance, Planning and Development*]; read the first time.

Motion made, That the next stage be taken at the next sitting of the Senate.
[*Hon. W. Mark*]

Question put and agreed to.

PETITION**Friends of Mr. Biswas of Trinidad and Tobago**

Sen. Prof. Julian Kenny: Mr. President, I wish to present a petition on behalf of the Friends of Mr. Biswas of Trinidad and Tobago of 5 Elizabeth Street, Port of Spain, Trinidad and Tobago.

The petitioners are desirous of constituting the said organization into a corporate body so that its aims and objects could be more effectively achieved.

I shall now ask that the Clerk be permitted to read the petition.

Petition read.

Question put and agreed to, That the promoters be allowed to proceed.

PAPERS LAID

1. The Copyright (Customs) Regulations, 2000. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. Fifty-Seventh Report of the Salaries Review Commission of the Republic of Trinidad and Tobago. [*Hon. W. Mark*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Programme of Institutional Strengthening of the Women's Affairs Division of the Ministry of Culture and Gender Affairs for the year ended December 31, 1995 as required by a

Non-technical Co-operation Agreement ATN/SF-4348-TT between the Government of the Republic of Trinidad and Tobago and the Inter-American Development Bank. [*Hon. W. Mark*]

ORAL ANSWER TO QUESTION

**Miss Universe Pageant
(Costs incurred with regard to Hangar)**

5. Sen. Muhummad Shabazz asked the Minister of Trade & Industry and Consumer Affairs:

- A. How much did it cost the Government or the Pageant Company to prepare the hangar at Chaguaramas for the Miss Universe Pageant?
- B. What is or will be the cost to the Government or the Pageant Company to dismantle the fixtures and fittings at the hangar at Chaguaramas after the Miss Universe Pageant?
- C. Could the Minister inform the Senate of the terms and conditions (financial and otherwise) under which the rental or lease of the hangar for the pageant were made?

The Minister of Trade & Industry and Consumer Affairs (Hon. Mervyn Assam): Mr. President, first of all, let me apologize for not being present last week although I was ready with the response, but I mistakenly thought that the Senate was meeting at 1.30 p.m. instead of 10.30 a.m. So I did come after 1.30 p.m. but was told that the item had already been taken.

10.45 a.m.

The total cost for preparing the hangar at Chaguaramas for the Miss Universe 1999 Pageant was TT \$10,654,165.

The sum of TT \$10,654,165 involves some 16 contractors carrying out various activities which included both the preparation of the site and the dismantling thereafter. There was no separation of costs between construction, preparation and dismantling.

The Pageant Company was granted the use of the hangar free of charge. Consequently, there were no terms and conditions.

Thank you, Mr. President.

Sen. Mohammed: A supplemental question to the hon. Minister. Could the hon. Minister inform us in this Chamber, as to what the final audited accounts for the 1999 Miss Universe Pageant were? You promised on the last occasion you would get it. Are they ready and when would they be made available to us?

Hon. M. Assam: The accounts are ready, they have been audited. They would be taken to Cabinet tomorrow and, if Cabinet approves, they would be laid in this honourable House at the next sitting of the Senate.

Sen. Prof. Spence: Could I ask the hon. Minister if those audited accounts apply to the Pageant Company or the total Government expenditure?

Hon. M. Assam: I do not understand the question about whether it applies to the company or the total Government expenditure. I do not understand the question. As far as I am aware, there was a company that was incorporated as a subsidiary of the Tourism Industrial Development Company, and all the accounts relate to the operations of that company, during the period it operated for the sole purpose of hosting and executing the Miss Universe Pageant 1999. That is all I can say.

Sen. Shabazz: A supplemental question to the hon. Minister; could the Minister tell me, under part B, what has happened with the fittings and fixtures that were at the hangar?

Secondly, with respect to part C, I asked what were the terms and conditions, financial or otherwise. Has the hangar been given back to the company it was leased from, and what, really, were the conditions? Do we now have the hangar? Has it been dismantled? What is the position with it?

Hon. M. Assam: Mr. President, the Senator asked so many questions in addition to his original question that I am wondering how many questions he wishes to ask the Minister. However, in the first instance, the hangar has reverted to the original tenant and everything has been dismantled. The original activity, which is, boat repair and building, is in operation at the hangar today.

Secondly, there was no financial arrangement for the use of the hangar, as I said earlier. Therefore, the Pageant Company did not have to pay any money for the use of that hangar, upon its return to the original tenant. *[Interruption]* What?

Sen. Shabazz: What about the fixtures and fittings?

Hon. M. Assam: Some of the fixtures belong to Miss Universe Inc., that is, they brought down their sound system, lights, a lot of different pertinences which they carry around the world for their annual pageant, so they took back all those things.

The stage which they constructed—they brought down the stage—they left it with us. You may see that stage being used at different functions.

Hon. Senators: On a UNC platform!

Hon. M. Assam: If one went, for example, to the opera that Pat Bishop put on at the Country Club some time last year, one would have seen part of the stage was used. One would see that it is sometimes used in the Savannah. One would see that it is used in different parts of the country for different occasions and purposes, so we have got the stage, which they brought down, for which we did not have to pay. They brought down the stage.

With respect to the air-conditioning, all the air-conditioning was leased and, therefore, that was returned to the original owners—I think it was Corrieras and Company—I believe so.

All the chairs were leased. They were sent back to the company from which we leased the chairs. In a real sense, most of the stuff has been cleared out.

However, there was an annex that was constructed to the west of the hangar to house the offices, wardrobes, dressing rooms, media and all of that; toilets, bathrooms and so forth were constructed. That annex is still there and it is being rented to the tenant who utilize the hangar in the first instance.

Sen. Yuille-Williams: One question to the hon. Minister. I would really like the Minister to check again on the furnishings for the building; the chairs *et cetera*. My understanding, Mr. President, is that the company wanted to have specially designed seats for that building and those were imported into Trinidad. I would like to know, to which company these were leased and sent back, because I know containers of those chairs came from abroad. Therefore, I wish the hon. Minister would really tell us where all those chairs went, because there were thousands of chairs which were imported. I had been following it while it was going on. I am a bit surprised to hear that they were leased and returned to a company, they were all new brand chairs.

Hon. M. Assam: Seeing that this was not part of the original question, if the distinguished Senator wishes an answer to all that she has just enquired about, I would be happy if she would put it writing to the Senate and I will return to the Senate with a response.

**GOVERNMENT SENATORS
(INTENDED REMOVAL OF)**

The Attorney General and Minister of Legal Affairs (Hon. Ramesh Lawrence Maharaj): Mr. President, I am grateful for the leave granted to the Attorney General and Minister of Legal Affairs, to make a statement in this honourable House in discharge of the Attorney General's responsibility for the

administration of legal affairs and as a principal legal advisor to the Government of this country.

Mr. President, the matter which I deem it necessary to bring to the attention of this honourable House is one which directly affects the composition of the Senate and the refusal and/or reluctance of His Excellency the President to accept the advice of the Prime Minister under section 43(1)(e) of the Constitution of the Republic of Trinidad and Tobago.

By letter dated January 17, 2000 the Hon. Prime Minister advised His Excellency the President to revoke the appointment of two Government Senators and to replace them by two others. In the view of the Attorney General, the refusal or even reluctance of His Excellency the President to comply with the Prime Minister in this matter raises serious questions under the Constitution of the Republic of Trinidad and Tobago. For this reason I have deemed it proper and advisable to bring to the attention of this honourable Senate the correspondence which passed between His Excellency the President and the Prime Minister and to make this statement.

In response to the President's request that the Prime Minister respond to His Excellency in writing, the hon. Prime Minister replied by letter dated January 25, 2000 to the letter of His Excellency the President.

10.55 a.m.

Mr. President, I will read the letter:

“His Excellency

Mr. Arthur N.R. Robinson, T.C. O.C.C., S.C.

President of the Republic of Trinidad and Tobago

Office of the President

President's House

St. Ann's.

Your Excellency

By letter of January 17, 2000 I advised Your Excellency to revoke the appointment of two Government Senators and to replace them by two new Senators.

You responded by letter of 19th January, 2000, which was brought to my attention on the morning of the 21st instant. I immediately sought audience with you, and visited you at noon on Friday 21st January, 2000, when the matters raised in your letter were discussed.

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Your letter introduced these other issues:

1. Your desire to alter the relationship between the Central Government and the Tobago House of Assembly.
2. The decision of the Government to appoint a Commission of Enquiry to enquire into the Administration of Justice.
3. The suspension of my weekly visits to you and your misapprehension that you were not being provided with information regarding the conduct of the Government.

After discussion of these issues, you requested my response in writing. As items (1) and (2) are not of immediate urgency, I shall defer them for consideration at an appropriate time.

With respect to item (3) it appears to have escaped your memory that it was at your request that the frequency of our weekly meetings be reduced as the stress was having a deleterious effect on your failing health.

Nevertheless, we have continued to keep in touch by telephone and I have continued to forward all Cabinet Minutes to you on a timely basis. But if it is now your wish that these meetings be resumed, even if less frequently, I shall be only too happy to do so.

Section 81 of the Constitution to which your letter refers provides as follows:

“The Prime Minister shall keep the President fully informed concerning the general conduct of the government of Trinidad and Tobago and shall furnish the President with such information as he may request with respect to any particular matter relating to the Government of Trinidad and Tobago.”

This section of the Constitution does not require weekly or other attendance on the President by the Prime Minister but enables the President to request of the Prime Minister the relevant information he may require.

I assure Your Excellency that I shall be happy to comply fully and promptly with any such request you make. Moreover, it will be a pleasure to meet Your Excellency as and when you desire.

As to my advice to appoint the two new Senators, having met Your Excellency on Friday last and discussed the matter raised in your letter, Your Excellency has effectively discharged your constitutional functions of consulting, advising, counselling and warning, and I appreciate what you have done.

This morning, Tuesday 25th January, I again tried to make an appointment to see you but was informed by your Secretary that you will not be available for the entire day. As you know Wednesday is Cabinet Day. I shall therefore try again to meet with you on Thursday.

May I now, in the discharge of my own constitutional responsibilities, repeat the advice I have tendered to revoke the appointments of Senators Agnes Williams and Nathaniel Moore and in their stead forthwith to appoint Jearlean John and Winston John, as the Government cannot function with a minority in the Senate, and the Government's legislative programme is being unduly delayed.

Yours sincerely

Basdeo Panday."

Mr. President, in view of the relevance of this matter to the conduct of the business of this honourable Senate, it is my duty to lay on the Table copies of the correspondence which passed between His Excellency and the Prime Minister and one item of which His Excellency has published to the media via press release. I hereby lay these letters and the media release on the Table of this honourable Senate.

Mr. President, no interpretation of the Constitution can support that any of these issues introduced by a President of the Republic can be a basis for a failure by him or a reluctance by him to act on a Prime Minister's advice regarding the revocation of the appointment of Senators and the appointment of two new ones in their place.

Mr. President, a President's delay in acting upon the advice of a Prime Minister to appoint Government Senators can cause undue restraint on a Government's ability to proceed with the business of the Parliament and of the governance of the country.

Mr. President, His Excellency's letter accuses the central government of seeking to resolve an issue with the Tobago House of Assembly, and I quote, "by use of power". His Excellency's letter infers that the central government has been abusing its power and not using the provisions of the Tobago House of Assembly Act. Mr. President, this is wholly not the case. His Excellency is quite familiar with all of the provisions of the Tobago House of Assembly Act, of which he was the principal architect.

The current dispute between the Tobago House of Assembly and the central government concerns allocation of funds and accounting for them. The Act

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provides a mechanism for the resolution of disputes between the central government and the Tobago House of Assembly. Mr. President, the Act is, in fact, being invoked by the Tobago House of Assembly as His Excellency would have known from the Cabinet Minutes in his possession.

Mr. President, any differences in the internal politics of Tobago are separate and distinct questions from the appointment and removal of Government Senators. The Tobago House of Assembly Act does not in any way modify or override the Constitution of the Republic and the clear duty it imposes on a President to declare the seat of a Government Senator vacant when so advised by a Prime Minister. Similarly, the President cannot refuse to act on the advice of a Leader of the Opposition to remove or appoint an Opposition Senator.

The Senate established under the Constitution consists of 31 Senators. The President has the right to appoint 9 Senators; the Leader of the Opposition, 6; and the Prime Minister, 16, guaranteeing the Government the slimmest majority. A Government therefore cannot conduct its business unless its Senators approved by a Prime Minister are in support of the Government.

Mr. President, a President of the Republic has his own quota of 9 Senators and, therefore, has no constitutional power to seek to influence either a Leader of the Opposition or a Prime Minister with respect to the Senators they appoint. A President of the Republic has no constitutional authority to refuse to accept the advice of a Prime Minister or Leader of the Opposition on the replacement of Senators they nominate.

The authority of the President of the Republic in these circumstances is clearly defined in section 43(2) of the Constitution of the Republic of Trinidad and Tobago which states in part as follows:

“A Senator shall also vacate his seat in the Senate where—

- (e) the President, acting in accordance with the advice of the Prime Minister in the case of a Senator appointed in accordance with that advice, or in accordance with the advice of the Leader of the Opposition in the case of a Senator appointed in accordance with that advice, or in his discretion in the case of a Senator appointed by him in his discretion, declares the seat of that Senator to be vacant.”

Mr. President, it is to be emphasized that the Constitution gives the President of the Republic the right to appoint in his own absolute discretion nine Senators and no more. A President’s refusal for any reason to follow the advice of a Prime

Minister to appoint Government Senators carries with it the implication that he has the right to refuse similar advice from a Leader of the Opposition. In this way, it would be possible for a President of the Republic to reduce the composition of the Senate to his own will, which can undermine the democratic process and the Constitution of the Republic. There is a clear constitutional duty for a President of the Republic to comply with the advice of a Prime Minister calling for the removal and appointment of Senators. Every President has promptly complied whenever so advised by a Prime Minister.

The Republic of Trinidad and Tobago is a unitary state. Notwithstanding this, successive central governments, including one of which His Excellency was head and others of which he was a member, have striven to accommodate the aspirations of the people of Tobago for recognition and management of their internal affairs. It is for this reason that the present Government sought to ensure adequate representation of the interests of Tobago in the Senate by initially appointing two from Tobago as Government Senators. The two persons whom the Prime Minister has advised his Excellency to appoint as the new Senators are also from Tobago. When such persons are appointed to the Senate, they are Senators of Trinidad and Tobago and not only of Tobago as His Excellency's letter infers. The same obligation to represent the interests of the Republic instead of those of a specific region applies to various public offices other than that of membership in the Senate.

Mr. President, notwithstanding this and the level of representation of Tobago in the Senate, that is not an issue which a President of the Republic can use to object to a Prime Minister's choice of persons whom he wishes to replace as Government Senators. Should the President of a Republic exercise such a discretion it would be a dangerous, unprecedented, partisan and impermissible intrusion by a Head of State into the politics of the nation.

Mr. President, it is an accepted convention of the Constitution that if a Senator votes against a measure put forward by the party responsible for his appointment, the Member should resign or expect to be replaced. This is precisely why two hon. Government Senators who voted against the Government are being replaced. A Government majority in the Senate is dependent on the votes of all of the Senators appointed on the advice of the Prime Minister. Any delay by a President of the Republic in responding to the advice of a Prime Minister in these circumstances will jeopardize a Government's ability to function as the country's legitimate executive. Mr. President, such action effectively removes the Government's majority and will interrupt the conduct of business in this

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honourable Senate and the Parliament of the Republic of Trinidad and Tobago. Mr. President, there can be no doubt that every Member is anxious to proceed with the business of the Senate.

Thank you very much, Mr. President. [*Desk thumping*]

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, in light of the Attorney General's statement, at this time I beg to move that the Senate do now adjourn to Thursday, January 27, 2000 at 1.30 in the afternoon.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 11.08 a.m.