

Leave of Absence

Tuesday, October 17, 2000

SENATE

Tuesday, October 17, 2000

The Senate met at 10.08 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. Brig. The Hon. Joseph Theodore from the sitting of the Senate, October 15, 2000 and continuing. Leave of absence was also granted to Sen. Jearlean John from sittings of the Senate for the period October 14 to October 19, 2000. Regrettably, Sen. Ganace Ramdial would be absent from the Senate as a result of ill-health. We have also granted leave of absence to Sen. Diana Mahabir-Wyatt, and in these connections we have received correspondence from the Office of His Excellency, as follows.

SENATORS' APPOINTMENT

Mr. Vice-President: I have received the following piece of correspondence 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: MR. DAVE COWIE

WHEREAS Senator Joseph Theodore is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GANACE RAMDIAL, Acting 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, DAVE COWIE, to be temporarily a member of the Senate, with effect from 17th October, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Joseph Theodore.

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 12th day of October, 2000.

10.15 a.m.

“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: DR. GEORGE DHANNY

WHEREAS Senator Jearlean John is incapable of performing her functions as a Senator by reason of her 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, GEORGE DHANNY, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Jearlean John.

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 17th day
of October, 2000.”

“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 Ganace Ramdial is incapable of performing his functions as a Senator by reason of illness:

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, VINCENT CABRERA, to be temporarily a member of the Senate, with immediate effect and continuing during the period of illness of the said Senator Ganace Ramdial.

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 17th day of October, 2000."

"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. LAILA SULTAN-KHAN VALERE

WHEREAS Senator Diana Mahabir Wyatt is incapable of performing her functions as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N.R. ROBINSON, President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, LAILA SULTAN-KHAN VALERE, to be temporarily a member of the Senate, with effect from 17th October, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Diana Mahabir Wyatt.

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 16th day of October, 2000."

Mr. Vice-President: The four Senators are required to take the oath. Would you all please stand for this?

The following Senators took and subscribed the Oath of Allegiance as required by law:

Dave Cowie, Dr. George Dhanny, Vincent Cabrera, Mrs. Laila Sultan-Khan Valere.

SESSIONAL SELECT COMMITTEES

(Appointment of)

Mr. Vice-President: Continuing under “Announcements by the Vice-President”, hon. Members, according to Standing Order 64, I wish to appoint the following members to serve on the following Sessional Select Committees for the 2000 Session of the Senate.

Standing Orders Committee—Mr. Ganace Ramdial, Chairman; Dr. Daphne Phillips, Member; Mr. Selwyn John, Member; Mrs. Nafeesa Mohammed, Member and Mrs. Diana Mahabir-Wyatt, Member.

House Committee—Mr. Ganace Ramdial, Chairman; Mr. Wade Mark, Member; Rev. Barbara Gray-Burke, Member; Mrs. Nafeesa Mohammed, Member and Prof. John Spence, Member.

Committee of Privileges—Chairman, Mr. Ganace Ramdial; Members: Mr. Wade Mark; Mr. Philip Hamel-Smith; Mrs. Nafeesa Mohammed, and Mr. Martin Daly.

Statutory Instruments Committee—Chairman, Mr. Ganace Ramdial; members, Mr. Selwyn John, Mr. Mahadeo Jagmohan, Rev. Daniel Teelucksingh and Mrs. Jearlean John.

OFFENCES AGAINST THE PERSON

(AMDT.) (NO. 2) BILL

Bill to amend the Offences Against the Person Act, Chap. 11:08, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

MISCELLANEOUS LAWS BILL

Bill to amend certain provisions of the Summary Courts Act, the Summary Offences Act, the Offences Against the Person Act and the Larceny Act to remove certain discriminatory religious references, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

CONSTITUTION (AMDT.) (NO. 2) BILL

Bill to amend the Constitution of the Republic of Trinidad and Tobago, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

INTEGRITY IN PUBLIC LIFE (AMDT.) BILL

Bill to amend the Integrity in Public Life Act, 2000, brought from the House of Representatives [*The Attorney General and Minister of Legal Affairs*]; read the first time.

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

Question put and agreed to.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Lotteries Control Board for the year ended December 31, 1997. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. The Betting Levy Board Administrative Report for the period November 15, 1989 to June 30, 1990. [*Sen. The Hon. W. Mark*]
3. The Betting Levy Board Administrative Report for the period July 01, 1990 to June 30, 1991. [*Sen. The Hon. W. Mark*]
4. The Betting Levy Board Administrative Report for the period July 01, 1991 to June 30, 1992. [*Sen. The Hon. W. Mark*]
5. The Betting Levy Board Administrative Report for the period July 01, 1992 to June 30, 1993. [*Sen. The Hon. W. Mark*]
6. The Betting Levy Board Administrative Report for the period July 01, 1993 to June 30, 1994. [*Sen. The Hon. W. Mark*]

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7. The Betting Levy Board Administrative Report for the period July 01, 1994 to June 30, 1995. [*Sen. The Hon. W. Mark*]
8. The Betting Levy Board Administrative Report for the period July 01, 1995 to June 30, 1996. [*Sen. The Hon. W. Mark*]
9. The Betting Levy Board Administrative Report for the period July 01, 1996 to June 30, 1997. [*Sen. The Hon. W. Mark*]
10. The Betting Levy Board Administrative Report for the period July 01, 1997 to June 30, 1998. [*Sen. The Hon. W. Mark*]
11. The Betting Levy Board Administrative Report for the period July 01, 1998 to June 30, 1999. [*Sen. The Hon. W. Mark*]

TELECOMMUNICATIONS BILL

Bill for the regulation of telecommunications in Trinidad and Tobago, [*The Minister in the Office of the Prime Minister*]; read the first time.

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

Question put and agreed to.

PRIVATE SECURITY AGENCIES BILL

Bill to regulate the licensing and operation of private security agencies, the employment of security officers and matters incidental thereto, [*The Minister of National Security*]; read the first time.

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

Question put and agreed to.

FIREARMS (AMDT.) BILL

Bill to make miscellaneous amendments to the Firearms Act, Chap. 16:01 and for the incorporation of certain provisions of the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and other related materials, [*The Minister of National Security*]; read the first time.

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

Question put and agreed to.

**UNIT TRUST CORPORATION OF
TRINIDAD AND TOBAGO (VESTING) BILL**

Bill to repeal the Unit Trust Corporation of Trinidad and Tobago Act, Chap. 83:03 to vest the undertaking, real property, specified assets and functions of the Trinidad and Tobago Unit Trust Corporation in UTC Financial Services Limited, UTC Holdings Limited and UTC Trust Services Limited, to grant UTC Holdings Limited a permit under the Financial Institutions Act, 1993 and for connected matters, [*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.
[*Sen. The Hon. W. Mark*]

Question put and agreed to.

BASIC CONDITIONS OF WORK AND MINIMUM WAGES ACT

Bill to implement internationally acceptable standards for basic terms and conditions for employees, to repeal and replace the law relating to minimum wages and generally, to make provision for employers and employees to enjoy rights and exercise responsibilities that promote a fair, equitable and just system of employment in Trinidad and Tobago and for matters related thereto, [*The Minister of Labour and Co-operatives*]; read the first time.

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

Question put and agreed to.

SUPPLEMENTAL POLICE (AMDT.) BILL

Bill to amend the Supplemental Police Act, Chap. 15:02, [*The Minister of National Security*]; read the first time.

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

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, I seek leave of the Senate to deal with “Bills Second Reading” at this stage of the proceedings. Mr. Vice-President, I take this opportunity to advise the Senate, and I have spoken to both the Leader of Opposition Business—well,

Sen. Danny Montano at that time—as well as Sen. Prof. Spence, that we shall be proceeding to take Bills Nos. (i) and (ii) jointly as we proceed, Sir.

Agreed to.

ELECTRONIC TRANSFER OF FUNDS CRIME BILL

Order for second reading read.

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

That a Bill to regulate the transfer of money by an electronic terminal by use of a card for the purpose of instructing or authorising a financial institution to debit or credit a cardholder's account when anything of value is purchased and for other related purposes, be now read a second time.

As agreed to by this honourable Senate, I shall be debating the second Bill conjointly—although when they reach the committee stage they will be dealt with separately—which is “An Act to prohibit any unauthorised access, use or interference with a computer and for other related matters”.

Mr. Vice-President: The proposal is to deal with Bills Nos. (i) and (ii), conjointly. Do I take it that we have your concurrence to proceed accordingly?

Assent indicated.

Mr. Vice-President: As indicated, the debate will proceed on the issues raised in both Bills. As we proceed thereafter, they will be independently dealt with. So we will proceed with Bills Nos. (i) and (ii) conjointly.

Hon. M. Assam: Mr. Vice-President, it may be thought that this Government is coming at the last minute to introduce two very important pieces of legislation, and perhaps this could also be associated with the fact that within recent times there has been a lot of disquiet in the national community and in the newspapers about what is taking place with respect to computer misuse and electronic transfers.

10.30 a.m.

Mr. Vice-President, in fact, there is a very interesting article in the *Sunday Guardian* written by the reporter Geisha Kowlessar titled “Phone-tapping computer-hacking” grip T & T”. It is a very well-researched article I must say—and I must congratulate the reporter for so doing—in which she highlights some of the international trends that have now overtaken Trinidad and Tobago like a virus, in terms of the misuse of the telephone and the computer as it relates to the Internet and to electronic commerce.

In my capacity as Minister of Trade & Industry and Consumer Affairs, I took a note to Cabinet in November 1999 and I was able to get the concurrence of the Cabinet to set up a committee, which was called the National Electronic Commerce Policy Committee, and that committee submitted an interim report in December and the final report in June, 2000. It is a report with enormous implications and a number of serious recommendations. I would just like to read some of the recommendations for the benefit of hon. Senators to indicate to this honourable House and, by extension, the national community that this Government has been addressing this problem with a certain amount of seriousness and urgency.

On page 64 of the report, the committee recommends that:

- “1. Trinidad and Tobago enact new legislation that neutralises technology related constraints in existing laws which restrict the legal acceptance of electronic documents and transactions.
2. Trinidad and Tobago accede to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) soon as possible.
3. Trinidad and Tobago actively encourage other States to accede to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) as soon as possible.
4. Trinidad and Tobago participate actively in the ongoing international discussions on electronic commerce and the protection of original work that takes place within the World Intellectual Property Organization (WIPO).
5. Trinidad and Tobago enact legislation that contains provisions clearly limiting the liability of Internet Services Providers and intermediaries in areas that would discourage the growth of Electronic Commerce.
6. The Country Code Top Level Domain (ccTLD) Name Registrar be required to implement the guidelines for domain name registration developed by WIPO.”

There are about 18 recommendations which I will not go through but, they are all very important recommendations but one of the most important is, the question of the whole legislative regime that is required to address the increasing use of the Internet and e-commerce in Trinidad and Tobago.

Mr. Vice-President, the background to this Bill is that the Government of Trinidad and Tobago recognizes that the major impediment to the proliferation of global e-commerce is the local level of confidence in the medium by users. The growth of e-commerce in Trinidad and Tobago would be slowed considerably unless the marketplace rules in certain key areas are not seen to be, at least, as clear as the existing rules. Marketplace rules refer to those that govern the code of conduct of parties involved in business including governments, because we are moving into the era of e-government and business transactions including government. These rules may be encoded in legislation agreed by contract or accepted on moral grounds. They have developed over time and govern transactions that take place within sovereign jurisdictions and between parties from different sovereign territories.

Our efforts to build the marketplace confidence are therefore guided by the following:

- (1) The guarantee of individual privacy. It should be recognized that individual privacy is a constitutional right of every citizen and safeguards must be put in place to protect these rights;
- (2) In the current electronic environment, the free flow of information and transaction should not be restricted, except it is done to preserve the sanctity of those rights, but at the same time leaving room for choice; and
- (3) An appropriate balance must be established between the interest of the private sector and that of the individual in securing his or her right to privacy.

Mr. Vice-President, there are also consumers' rights and obligations in setting standards for consumer protection. The rights of the consumer should not be diminished as a result of the use of Internet technology. The protection of consumers' rights is essential to the building of trust in the electronic commerce environment. The right to information is a key element of consumer protection.

Mr. Vice-President, as you know, we introduced into this Parliament, the Freedom of Information Act sometime ago. It is noted that the different legal and private sector rules may apply to business, to consumer transactions. The global nature of electronic commerce poses questions about what requirements are necessary for writing, carrying out and enforcing contracts. The same type of consumer fraud that exists in the real marketplace are surfacing online. The problem is complicated by the transitory nature of the electronic marketplace and the ability to maintain anonymity.

The growth of electronic commerce and rapid development of network technologies have revolutionized the way in which data can be stored, accessed and processed. Consumers are not likely to participate in the global marketplace without assurances that their personal data exchange during a transaction will be protected. Security and authentication mechanisms can provide the means to ensure and maintain the integrity of information being exchanged. These technological advances will help promote trust and confidence in all electronic transactions.

The object of the Bill, Mr. Vice-President is:

“ ...to regulate the transfer of money by an electronic terminal by use of a card for the purpose of instructing or authorizing a financial institution to debit or credit a cardholder’s account when anything of value is purchased...”

The application of the Bill is limited to bank cards, credit cards, smart cards or other similar types of cards, needed for purchasing anything of value. The Bill seeks to achieve the object describing various offences and penalties as identified hereunder. Some of the offences identified are making of a false statement; making or causing to be made either directly or indirectly any false statement as to a material fact in writing, knowing it to be false and with intent that it be relied upon in respect of the perpetrator’s identity or that of another person or the perpetrator’s financial condition or that of another person; and for the purpose of procuring the issuance of a card to the perpetrator or another person.

It also referred to theft by taking or retaining possession of a card. Taking a card without consent includes obtaining it by any conduct defined or known as larceny or common-law theft, or by obtaining property by false pretence or by extortion from the possession custody or control of the cardholder, or a person holding or having possession of the card with the consent of the cardholder, without the cardholder’s or the person’s consent or with knowledge that it has been so taken, receiving the card with intent to use, sell or to transfer it to a person other than the issuer or cardholder.

Mr. Vice-President, another area is card theft—receiving a card which the perpetrator knows or ought to reasonably know to have been lost, mislaid, or delivered under a mistake as to identity or address of the cardholder, and who retains possession with intent to use, sell or to traffic it to persons other than the issuer or cardholder.

It also relates to dealing in the card of another. In the case of a person other than the issuer receiving and retaining possession of two or more cards issued in name or names of different cardholders which cards he has knowledge were taken or retained under circumstances, which constitute a card theft. It also deals with the purchase or sale of a card of another person, in the case of a person other than the issuer selling a card or buying a card from a person other than an issuer. It also deals with obtaining control of a card as security for debt, with intent to defraud the issuer, a creditor or any other person obtaining control over a card as security for debt.

10.40 a.m.

It also deals with card forgers with intent to defraud. Clause 9(2) states:

“A person, other than an authorised manufacturer or issuer, who possesses a counterfeit card is presumed to have the intent to defraud...”

An issuer creditor or other person falsely making, engaging or altering in any manner a card or uttering such a card or with intent to defraud, having a counterfeit card or any invoice, voucher, sales draft or other representation or manifestation of a counterfeit card in the perpetrator's possession, custody or control.

It also deals with signing of another person's card. In the case of a person other than the cardholder or person authorized by him, with intent to defraud the issuer or the creditor.

Also the fraudulent use of a card with intent to defraud an issuer or creditor, using for the purpose of obtaining money, goods, services or anything else of value, a card obtained or retained fraudulently, or a card which the perpetrator knows is false or obtains money, goods services or anything else of value by representing without consent or authorizing of cardholder, that perpetrator is the holder of a specified card, or by representing that he is the holder of a card and that such card has not been validly issued.

Also, fraud by persons authorized to provide goods and services. In the case of a creditor with intent to defraud the issuer or the cardholder furnishing goods and services or anything else of value upon presentation of a card which the perpetrator knows is obtained or retained fraudulently or illegally, or a card which he knows is forged, expired or revoked.

In the case of a creditor, Mr. Vice-President, with intent to defraud the issuer or cardholder, failing to furnish goods, services or anything else of value which he represents in writing to an issuer or cardholder that he has furnished. In clause 12(3) we see that an offence is committed by a person who is authorized by a creditor to furnish goods, services, or anything else of value upon presentation of a card or a card account number by a cardholder, or any agent or employee of such person, who, with intent to defraud the issuer, or the cardholder, presents to the issuer or the cardholder, for payment, a card transaction record of sale, which sale was not made by such person, or his agent or employee.

Clause 12(4) goes on to say that a person commits an offence who, without the creditor's authorization, employs, solicits, or otherwise causes a person who is authorized by the creditor to furnish goods, services or anything else of value upon presentation of a card account by a cardholder, or employs, solicits, or otherwise causes an agent or employee of such authorized person, to remit to the creditor a card transaction record of sale that was not made by such authorized person or his agent or employees.

Also, Mr. Vice-President, it addresses the receipt of money obtained by fraudulent use of cards. Receiving money, goods, services or anything else of value knowing or believing that it was so obtained.

It also deals with obtaining goods by the use of false, expired or revoked cards. Clause 15(1)A states that a person commits an offence who, with knowledge, unlawfully obtains credit or purchases any goods, services or anything else of value by the use of any false, fictitious, counterfeit or expired card, card number or other credit device, or by use of any card, card number or other credit device of another person without authority of that person to whom such card, number or device was issued, or by use of any card, card number or other credit device in any case where such card, number or device has been revoked and notice of revocation has been duly given.

There are penalties for all of these offences, Mr. Vice-President, and all of the offences that I have attempted to enumerate will carry, on summary conviction, a fine of between \$20,000 to \$30,000 and imprisonment for two years, or on indictment, a fine of \$50,000 or imprisonment for three to five years.

Mr. Vice-President, clause 1 provides the short title of the Bill. Clause 2 defines certain important words in the Bill: the difference between a bank card, a credit card and a smart card. Similarly, the difference between a counterfeit card, an expired card and a revoked card.

Clause 3 makes it a summary offence for a person to knowingly give false information to a financial institution to procure the issuance of a card to himself and clause 4 would make it an offence for a person to take possession of a card from another, without consent, or knowingly to receive a stolen card.

Clause 5 makes it an offence for a person to receive and retain a card, knowing that it was lost, mislaid or mistakenly delivered to him, while clause 6 would make it an offence for a person to receive and retain possession of two or more cards belonging to other persons which he knew were taken or retained under clause 5.

Clause 7 would make it an offence for a person who is not an issuer to sell a card or to buy a card from another person other than an issuer. Clause 8 would make it an offence for a person to obtain control of a card as security for a debt with intent to commit fraud.

Clause 9 would make it an offence for a person to make or to alter in any manner, a card with which he is presumed to have an intent to defraud, if he has possession of two or more counterfeit cards. Clause 10 would make it an offence for a person knowingly to sign the card of another person.

Clause 11 would make it an offence for a person to obtain anything of value by use of a forged card or a card obtained or retained fraudulently.

Clause 12 would make it an offence for a creditor to furnish goods and services on a card he knew was obtained or retained fraudulently or illegally, or was false, expired or revoked, or represented to the issuer that he has furnished goods and services when, in fact, he has not done so.

Clause 13 would make it an offence for a person who knowingly received goods and services obtained in breach of clause 12, which I have just indicated.

Clause 14 would provide that certain defences are not available for a prosecution under this Act, for which this is the Bill.

Clause 15 would make it an offence for a person knowingly to obtain anything of value by use of a false, fictitious, counterfeit, revoked or expired card, card number or other credit device.

Clause 16 would make it an offence to traffic three or more counterfeit cards, invoices and so forth, or card account numbers of another person.

Clause 17 would make it an offence to receive, possess, buy or sell card-making equipment with intent to use it to make counterfeit cards.

Clause 18 would make it an offence to alter in any manner, a card invoice after the cardholder has signed that invoice.

Clause 19 would restrict the liability of a cardholder who has lost possession of his card to \$500. As you know, Mr. Vice-President, it could happen that one loses one's card and some person could use that card for thousands of dollars in a very short space of time. The liability of the cardholder is only limited to \$500, provided however, that notice is given within seven days and where the cardholder, with knowledge, fails to report the loss after seven days, he is deemed to accept liability to any extent for loss to the issuer from the illegal use of the card. So, he has a very long time, seven days within which to report the loss and restrict his liability to \$500 after which, his liability becomes unlimited.

Clause 20 seeks to prevent a financial institution from disclosing the names of cardholders. This is a very important clause, because information disclosure from financial institutions seems to be rampant nowadays. *[Laughter]* The criminal activity of hacking seems to be very prevalent in our midst. *[Desk thumping]*

Sen. Prof. Spence: Mr. Vice-President, I wonder if the hon. Minister could just explain the seven-day limit, because the way I read it is that the seven-day limit only applies to the time between oral notification and confirmation in writing. So, in fact, one could give oral notification a month later and then in seven days, one must give it in writing.

All clause 19(6) says is:

“Notice under subsection (4) takes effect when received, but where it is given orally, it shall be treated as not taking effect if not confirmed in writing within seven clear days.”

So, seven days only applies to the confirmation. One could give the oral notice, as I say, a month later and then have seven days to confirm it in writing. Would the hon. Minister state whether my interpretation is correct?

Hon. M. Assam: As I understand it, Senator, the final notification to the financial institution is the notification in writing for which one has seven days in the Bill to do so.

Sen. Prof. Spence: So, I am correct in saying that there is no limit to the time in which one needs to give oral notification? One could give it a month later?

Hon. M. Assam: It seems to me that if one has seven days within which to give written notification and that is the final notification that will be accepted by a financial institution, one will be well advised to do so within the seven-day limit in order to restrict one's liability to \$500. This is how I understand it.

Electronic Transfer Bill
[HON. M. ASSAM]

Tuesday, October 17, 2000

I was saying that clause 20 seeks to prevent a financial institution from disclosing the names of cardholders, their address and card numbers to any other person without the written consent of the cardholder, except disclosures to another financial institution for credit rating purposes only. So, Mr. Vice-President, this is what I would like to say on this particular Bill.

With respect to the other Bill, the Computer Misuse Bill, they are quite related because one has to use a computer to engage in electronic commerce, to engage in the Internet and to engage in all of these electronic transfers of funds from one bank to another, from one country to another, or from one financial institution to another.

With respect to this Bill to prohibit any unauthorized access or use or interference with a computer and for other related matters, our concern is related to the fact that individual privacy is the constitutional right of every citizen and we must continue to ensure that safeguards are put in place to protect this right. Individual privacy, I repeat, is the constitutional right of every citizen.

Consumers are not likely to participate in the global marketplace or even the local marketplace without assurance that their personal data will be protected. That is critical. Confidence in the financial system and confidence in the banker to client relationship are critical to the maintenance of a stable economy and, more so, a stable political and social system. We, therefore, need to adopt a flexible and responsive approach to the protection of personal data, including the acceptance of self-regulatory solutions and enact laws that forbid the disclosure of personal data to other persons, unless so authorized by the data exporter. It is very important.

Current international initiatives to enhance privacy protection on a global basis should be taken into consideration. What is critical here is consumers' rights and obligations. In setting standards for consumer protection, the rights of the consumer should not be diminished as a result of the use of Internet technology. As important as Internet technology is, consumer's rights must not be abrogated.

The protection of consumers' rights is essential to the building of trust in the electronic commerce environment. However, the right to information is a key element of consumer protection, because a consumer cannot make an informed decision without information. It is what protects and enhances consumer sovereignty in the marketplace. The consumer should be informed of the type of information which is required, whether it will be stored, and if distributed, which is critical, to whom? A consumer whose personal information is to be stored and distributed should have the right to give prior consent.

The object of the Bill, Mr. Vice-President, is to prohibit the unauthorized access to, use of or interference with any programme or data held in a computer. The Bill, therefore, seeks to enhance computer security. The object is achieved through the following means: giving protection to the integrity of computer systems; providing stringent penalties for specified computer related offences; and providing enhanced penalties in cases where the offence results in damage which includes financial loss, injury or harm.

10.55 a.m.

Providing a distinct jurisdictional framework for prosecution of offenders under this Bill.

What amounts to unauthorized access, Mr. Vice-President? Pursuant to this Bill, access of any kind by a person:

“...is unauthorised or done without authority if—

- (a) he is not himself entitled to control access of the kind in question to the program or data; and
- (b) he does not have consent to access the kind of program or data in question from the person who is entitled to control access.”

This is why, in most computer systems, there are levels of access to information. There are passwords in order to access different levels of information depending on your status in the hierarchy of the institution in which a lot of data is stored and/or restricted.

There are also specified computer-related offences and penalties—Under “Unauthorised access to computer program or data”:

“...knowingly and without authority causes a computer to perform any function for the purpose of securing access to any program or data held in that computer or in any other computer...”

Under “Access with intent to commit or facilitate commission of offence”:

“...knowingly causes a computer to perform any function...with intent to commit an offence—

- (a) involving property, fraud, dishonesty or which cause bodily harm; and

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- (b) which is punishable on conviction with imprisonment for more than one year.”

Equally, under “Unauthorised modification of computer program or data”:

“...does a direct or an indirect act without authority which...”

—the perpetrator:

“...knows will cause an unauthorised modification of any program or data held in any computer..”

—when such an act results in damage, an increased penalty would be imposed. Under “Unauthorised use or interception of computer service”:

“...knowingly and without authority—

- (a) secures access to a computer for the purpose of obtaining, directly or indirectly, any computer service;
- (b) intercepts or causes to be intercepted, directly or indirectly, any function of any computer by means of an electromagnetic, acoustic, mechanical or other device; or
- (c) uses or causes to be used, directly or indirectly, a computer, or any other device for the purpose of committing an offence under paragraph (a) or (b)...”

which I have just enumerated.

Also, Mr. Vice-President, under “Unauthorised obstruction of use or use of computer”:

“...knowingly and without authority—

- (a) interferes with, interrupts, or obstructs the lawful use of a computer; or
- (b) impedes, prevents access to, or impairs the usefulness or effectiveness of any program or data held in a computer;”

Another area is “Unauthorised disclosure of access code”, which I referred to earlier:

“...knowingly and without authority discloses any password, access code or any other means of gaining access to any program or data held in a computer...”

...knowingly and without authority discloses any password, access code or any other means of gaining access to any program or data held in a computer...”

This is to be punished, obviously, if you are going to do it either:

- “(a) for any unlawful gain, whether to himself or to any other person;
- (b) for any other unlawful purpose; or
- (c) knowing that it is likely to cause unlawful damage,...”

There is also “Enhanced punishment for offences involving protected computers”—obtaining access to protected computers:

“..in the course of commission of an offence under section 3, 5, 6 or 7...

...a computer shall be treated as a ‘protected computer’ if the person committing the offence knew, or ought reasonably to have known that the computer, program or data is used directly in connection with or necessary for—

- (a) the security, defence or international relations of the State;
- (b) the existence or identity of a confidential source of information relating to the enforcement of a criminal law;
- (c) the provision of services directly related to communications infrastructure, banking and financial services,...or public key infrastructure; or
- (d) the protection of public safety and public health,...”

Another area is the “Unauthorised receiving or giving access to computer program or data”:

“...receives or is given access to any program or data held in a computer...”

—or not getting authorization:

“...to receive or have access to that program or data, from any person whether or not he knows that person has obtained that program or data through authorised or unauthorised means...”

So, whether it is authorized or unauthorized, it is still illegal. In the case of:

“A person who is authorised to receive or have access to any program or data held in a computer and who receives that program or data from another person knowing that that person has obtained that program or data through unauthorised means...”

In other words, it is almost like being accessory after the fact.

“...obtained any program or data held in a computer through authorised means and gives that program or data to another person who...”

—the perpetrator of the offence:

“...knows is not authorised to receive or have access to that program or data...”

It is very similar to the copyright situation where people use authentic works and copy them and engage in what is called “pirating”.

“has obtained any program or data held in a computer through unauthorised means and gives that program or data to another person whether or not...”

—the perpetrator:

“...knows that that person is authorised to receive or have access to that program or data...”

Another area that is being addressed is if someone causes a computer to cease to function. In other words, you cause a computer to “crash” or to malfunction:

“...engages in conduct which causes a computer to cease to function permanently or temporarily and at the time he engages in that conduct...”

—the perpetrator:

“...has—

- (a) knowledge that the conduct is unauthorised;
- (b) the requisite knowledge; and
- (c) the requisite intent,...

Penalties for the above offences would be for the first conviction, a fine of \$15,000 or imprisonment for two years. The fine for the second subsequent conviction, between \$20,000—\$30,000 and imprisonment for three to four years

except in the following: Where unauthorized disclosure of access codes causes unlawful damage, second or subsequent conviction can result in a fine of \$50,000 or imprisonment for six years. In other words, the penalty is harsher where there is an unauthorized disclosure of access which causes unlawful damage.

For offences involving “protected computers”, that is like national security and health and public safety and infrastructural systems, persons can:

“...be liable on conviction on indictment to a fine of one hundred and fifty thousand dollars and to imprisonment for ten years.”

In all instances, where damage is caused as a result of the offence, the person convicted of the offence shall be liable to additional fines. The offence is committed—and this is important— whether or not:

“...the act in question is not directed at—

- (a) any particular program or data;
- (b) a program or data of any kind; or
- (c) a program or data held in any particular computer.”

It does not, in any way, absolve anyone from a situation. There are some jurisdictional issues in terms of the scope of the Bill. The Bill will have effect in relation to any person whatsoever:

“...his nationality or citizenship, outside as well as within the State...”

In other words, it does not matter who you are and where you are, you can be prosecuted under this Bill when it comes into force. Where an offence is committed outside of the state, a perpetrator:

“...may be dealt with as if the offence had been committed within the State.”

Notwithstanding the above, the Bill shall apply if, for a particular offence:

- “(a) the accused was in the State at the material time;
- (b) the computer, program or data was in the State at the material time; or
- (c) the damage occurred within the State, whether or not (a) or (b) applies.”

That is, whether or not:

- “(a) the accused was in the State at the material time;
- (b) the computer, program or data was in the State at the material time;”

The “Jurisdiction of court” is that:

- “13. (1) A court shall have jurisdiction to hear and determine all offences under this Act.
- (2) A summary court shall have jurisdiction to hear and determine any offence, except under section 9, if—
 - (a) the accused was within the magisterial district at the time when he committed the offence;
 - (b) any computer containing any program or data which the accused used was within the magisterial district at the time when he committed the offence; or
 - (c) the damage occurred within the magisterial district...”

There is also provision for the payment of compensation.

“The court...may make an order against him for the payment of a sum to be fixed by the court by way of compensation to any person for any damage caused to that person's computer, program or data as a result of an offence for which sentence is passed.”

The Bill also addresses the powers of the police—the Bill shall not prohibit:

“...a police officer or a person authorised in writing by the Commissioner of Police...from lawfully conducting investigations pursuant to any powers conferred under any written law.

Clause 16(2) states:

“Where a Magistrate is satisfied by information on oath given by a police officer that there are reasonable grounds for believing that an offence under this Act has been or is about to be committed in any place and that evidence that such an offence has been or is about to be committed is in that place, he may issue a warrant authorising any police officer to enter and search that place, including any computer, using such reasonable force as is necessary.”

Mr. Vice-President, Part I of this Bill provides for merely preliminary matters. Clause 1 is the short title of the Bill and clause 2 provides for the interpretation.

In Part II:

“Clause 3 would make it a summary offence for a person knowingly to have unauthorised access to any program or data held in a computer, and an increased penalty would be imposed where that unauthorised access causes damage.

Clause 4 would make it a summary offence for a person, with or without authority, to access a computer program or data with intent to commit or facilitate the commission of a specified category of offences.

Clause 5 would make it a summary offence if a person does an act, whether temporary or permanent, which he knows shall cause an unauthorised modification of any program or data held in a computer and where such an act result in damage, an increased penalty would be imposed.”

11.10 a.m.

Clause 6 would make it a summary offence for a person knowingly to use any computer service, or intercept a computer function without authority and where the use or interception results in damage, an increased penalty would be imposed.

Clause 7 would make it a summary offence for a person knowingly to interfere with, impede or obstruct the use of a computer or impede access to any programme or data held in a computer and where such obstruction result in damage, an increased penalty would be imposed.

Clause 8 would make it a summary offence for a person, knowingly and without authority, to disclose any access code of a computer if the disclosure results in any wrongful gain or damage or is used for an unlawful purpose.

Clause 9 would make it an indictable offence if an offence committed under clauses 3, 5, 6 or 7 involved access to a protected computer. As I mentioned, Mr. Vice-President, a protected computer is one used for national security, law enforcement purposes, the provision of numerous public services, or the protection of the public interest.

Clause 10 would make it a summary offence for a person to receive or give access to any programme or data held in a computer without authority.

Clause 11 would make it a summary offence for a person to cause a computer to cease to function permanently or temporarily.

Part III provides for certain general provisions which include clause 12.

Clause 12 would provide for the territorial scope of offences under this Act, for which this is the Bill, whether the offender is a citizen or not, provided, however, that he or the computer was in the state at the material time, or damage occurred within the state whether or not he or the computer was within the state at the material time.

Clause 13 would provide the court with jurisdiction to try any offence committed under this Bill but would restrict the jurisdiction of a summary court to offences committed by a person within the magisterial district or where damage occurred within such a district, whether the person or computer was within the district.

Clause 14 would allow the court to make an order for payment of compensation by the offender to any person for any damage caused to that person's computer or any programme or data held in his computer.

Clause 15 would preserve the power of a police officer to conduct investigations as permitted under any written law.

Clause 16 would allow a Magistrate to issue a search warrant to a police officer who, upon executing it, may seize any article, data, document or information if he believes it is evidence that an offence has been committed.

Clause 17 would allow a police officer to arrest a person without warrant for the commission of any offence under this Act.

Clause 18 would provide that a person can be prosecuted for an offence, except an offence under clause 9, within one year from the date the offence was committed.

These are essentially the clauses and provisions of the Electronic Transfer of Funds Crime Bill.

Mr. Vice-President, I would like to urge Members opposite and, indeed, the entire Senate to support these two pieces of legislation very favourably because, I think, they have been late in coming because we have been using computers for some time. There are incidents of computer fraud, computer tampering, misuse of the Internet and the misuse of electronic commerce; which is becoming an extremely important means of conducting business. At this point in time it is said

that approximately US \$350 million are transacted on the Internet for electronic business purposes. It is estimated that in 10 years' time this will go to over US \$2 trillion.

One could see the exponential increase that is anticipated in electronic-commerce transactions. We in Trinidad and Tobago must seek to protect ourselves, our business people, our consumers, the integrity of the financial system, the confidence that we have so carefully built up; particularly with respect to attracting investors from overseas, and protect in general, the health and state of our national economy.

I hope, with these few remarks, Members opposite and, indeed, the entire Senate will give serious consideration to agreeing to the contents of these two pieces of legislation.

Mr. Vice-President, I beg to move. [*Desk thumping*]

Question proposed.

Sen. Danny Montano: Mr. Vice-President, before I begin, I would just like to say on behalf of the Members on this Bench we would like to send our deepest best wishes to the Senate President, Mr. Ganace Ramdial and wish him a speedy recovery. We hope that he gets better and we would like to see him back very soon.

We on this side certainly support the framework of the two bits of legislation in front of us. We have no special difficulty with it. Dealing with the first one: the Electronic Transfer of Funds Crime Bill, I know that personally, I have not had a whole lot of time to deal in depth with this Bill, but I did read it, and had one or two problems with it. It generally seems to be poorly worded. When we get to the committee stage you will see that there seems to be sections that tend to overlap. There are sections that do not seem to make any particular sense. I would draw reference to clauses 5 and 6. If you read clause 5, and you then read clause 6, you have to wonder what is the particular need for clause 6 when you have clause 5. It seems to be covered already. I had difficulties in a number of areas like that.

Mr. Vice-President, I read clause 12(4) at least half a dozen times and I still do not understand what it says. I just do not understand what it is trying to say. I used techniques where I tried to take out some of the gobbledygook to bring it down so that it is simply read but I was unable to bring it down so that I can understand exactly what it is saying. The way I understand it, it does not really make any sense. From that standpoint, I was not happy.

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If you look at clause 13:

“A person who receives money, goods, services, or anything else of value obtained in breach of section 13, knowing or believing that it was so obtained...”

So obtained? How obtained? What are we talking about? I just do not understand what we are talking about.

“...obtained in breach of section 13...”

This is section 13. What are we talking about? What does “so obtained” mean? There are several instances where the drafting is poor. It is not a question of the policy on the part of the Government, the drafting is poor.

Clause 19 deals with the question of the cardholder’s liability and notice. Clause 19(6) states if the cardholder loses a card, he has to give notice to the issuer; the bank or financial institution, that he has lost his card, it has been stolen, or whatever the case might be. The practical reality is that those persons who might, most frequently, encounter a situation where they lose a card or where it might be stolen, may very well be in a foreign country, and it could be far away, Timbuktu: somewhere that is not very readily accessible. Therefore, I think it is imperative that the oral notice be given greater emphasis in this legislation.

11.20 a.m.

It is imperative that that happens, because it is going to be extremely difficult, under certain circumstances, to get written notice from wherever he is to the issuer. The legislation says that notice is from the time that it is received, so that written notice must be received within seven days. That is going to put an onus on a cardholder that he may not, in fact, through no fault of his own, be able to comply with, and that, I think, is unfortunate. I would want to suggest at the committee stage that, perhaps, a period of 14 days be used, or just do away with the question of the written notice altogether.

Quite frankly, the issuers of these cards tend to watch these matters pretty closely, and when you make those phone calls, as has happened to me on one occasion, they tend to jump on it right away, and it is acted upon. It was acted upon in my situation, and I never did write anything. They did not ask me for anything in writing at all; they did act on it immediately. I cannot help but feel that that must be the key.

Of course, the issue of being protected from fraud on the part of the cardholder is important. Of course, the cardholder must be able to identify himself sufficiently to the issuer, but that can be dealt with between the issuer and the cardholder. Those are matters that they can settle between themselves, to say, "I will give you this card and you can call me, but if you call me you have to give me your password, pin number or something of the sort, some security identification notice," so that they can, in fact, verify that it is the cardholder who is making that claim. If you do not do something like that, it is going to be putting a terrible onus on the cardholder. I would ask the Minister to take those comments.

Beyond that, Sir, I really did not have the time to come up with a whole lot. As I said, I really do not have a problem with the basic thrust of the legislation. I think it is very important, as we come into the stage that we are at in modern business, that the laws be updated so they can specifically apply to the way business is presently being done. As I said, we have no particular difficulty with the thrust of the legislation.

Mr. Vice-President, to move on to the other Bill, the Computer Misuse Bill, again, I had no particular difficulty with it. Certainly, I think that privacy is an extremely important issue in business. Whether you are a bank or financial institution or just in business, I think that the issue of privacy is extremely important. It was disappointing when the Government itself made certain disclosures about Members of the Opposition and their banking records, mortgages and so forth. I do not know how that information fell into the hands of the Government. I think that that is an inappropriate use of that kind of information. It was most inappropriate. [*Desk thumping*]

It is an issue. The question of privacy is a serious issue. I was aware, of course, from the incident I mentioned earlier, that, in fact, access to one computer by another computer was not, in fact, illegal until this Bill is made law, but the fact that it was not illegal does not mean it was right. We have certain standards by which we all believe—a certain basic instinct as to what is right and what is wrong, and, certainly, that kind of access is certainly wrong. To make it illegal at this point is, I think, appropriate up to a point.

The line that has been crossed over is this—and to be honest, I have not as yet resolved the issue in my mind—what we are saying in this Bill and what we are really talking about is, fundamentally, accounting information contained in a computer. What we are saying is that for anybody to access that information by means of a computer or to release the information, to give that data to someone else in an unauthorized situation, is now actually being made illegal.

The situation is this: most businesses in Trinidad and Tobago do not use a computer—that is a fact—certainly all the big ones do, but most small businesses, all the little groceries, parlours, drugstores and so forth are not using a computer; they have manual accounts. They are using manual accounts. This Bill does not touch that situation, and yet the issue of privacy is the same. It is the same issue. In other words, for anybody to look at another person's manual accounts may be quite improper. How he accessed it—if he broke in and entered, that is another story—but to actually look at the information in a set of manual accounts is not illegal; not yet anyway. Nor is it illegal for a person who has manual data in front of him to release that information to a third party.

In other words, as this law stands, if the clerk in a bank has manual information—let us say something like a deposit slip, which is not a computer-generated piece of information, that is, a piece of manual information—and he releases it, that act would not be covered in this Bill, as far as I understand it, because that is not computer data. That is manual information. There we have a bit of a problem. How do we solve that? I am not really sure. Whether we should solve it, is another issue, because the reality is that I think—certainly, in my profession—it is an undertaking that we give to clients, for instance, that we are not going to release their confidential information. There is no law that requires me to keep that information confidential. It is only the standards and the ethics of my profession that demand that I keep that information confidential; there is no law against it; as far as I am advised.

Mr. Vice-President, what we need to do is to look at the situation here very carefully. Are we, in fact, setting up a situation where, if you have a computer, if you are big enough and rich enough and you have a computer, that you have more protection under the law, than if you cannot afford one? That is effectively what we are doing here. I want to clarify the two issues. There are two issues and they are quite separate: one issue is where somebody from outside is accessing information on the inside, and the other is where someone on the inside is releasing information to someone on the outside.

Clause 10 of this Bill deals with the situation where a person is given information from somebody on the inside. It is an absolute strict liability to the point where, if you read this in the way it is written—if you are standing at the counter of a bank and you are cashing a cheque, making a deposit or whatever it is you are doing, and the person next to you is doing his business, and the teller has the screen turned so that you can see it, that is against the law, according to this, because you have received computer information and that would be an illegal act on your part; just a glance at the screen. It seems to me that that is a little too strict.

The issue that we have to deal with here—without spending more time on this, and I really do not know how to solve it—is one, that certainly the intent of the Bill is to control unauthorized access into a computer. I certainly have no difficulty with that, but the releasing of information outside is a privacy issue and it is really a matter between the employer and the employee. Do we really want to interfere with that? We are now making that illegal, but only as it relates to computer data, not as it relates—as I said earlier—to manual accounting information. Is that what we are really trying to do here? That does not seem to be fair. I have difficulty with that.

Mr. Vice-President, to deal with the last issue—as I said I really did not have a whole lot of time to deal with this issue—in clause 16(2) where if a magistrate is satisfied by information and he decides to issue a warrant, he can authorize a police officer to enter “using such reasonable force as is necessary”. Why are we putting that in the legislation? I would have thought that a warrant implies that of its own, that the police use their own discretion as to how they execute a warrant. Why are we dealing with that in this legislation? I found that to be very strange. I just did not understand it, and I would like an explanation.

In terms of the drafting, again, in clause 2(2)(a) there is a word in there that I do not understand. The subclause states:

“he is not himself entitled to control access...”

I could not understand what that meant. I just do not understand what that subclause says. It makes a lot of sense if you remove the word “control”, but when you put the word control in, it just does not seem to read right at all. Beyond that, there is little else to say about it.

I think it is important that we have legislation to control this sort of thing. I do not know how one goes about trying to police this, because I had a situation happen to me the other day. I have a computer in my office, and I am linked to the Internet. I found that somebody had used my code, my account or whatever it is, and charged up an enormous bill in my name. Of course, the company said, “Well, you have to pay.” I asked why I should have to pay; I did not use this thing, and the hours logged were from times like 2 o’clock to 5 o’clock in the morning. But, Mr. Vice-President, I had better things to do between 2 o’clock and 5 o’clock, and that is a good sleep.

The long and short of it was that I had to get my telephone bills to prove that I had not used my telephone line to access the Internet centre. My provider was very gracious when I showed them that, and they said, “Fine, we will not hold you

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responsible and liable,” but the reality is that I am inclined to think that I would, in fact, be responsible for that, in a court of law. They could have held me responsible. How somebody got into my account, I cannot imagine, and how anybody could trace to find out who it is, I have no idea how they would do that either.

The point of the matter is that here we had—I do not think it was a crime, I suppose—what did they steal? I do not know if they stole anything, in the traditional sense. I do not think it would actually be illegal, but it is certainly improper. How would anybody be tracked down? I really do not know how these things work. While I support this Bill—I think it is basically necessary; it is, basically, a good thing—I do have one or two reservations about it, and, perhaps, the Minister in his winding-up can deal with some of those issues.

I just want to say, in closing, that by no stretch of the imagination would I ever or have I ever condoned hacking, but what I do in the privacy of my own house with my family is a matter for me and my family. Certainly, dealing with the issue that I raised last year, I would like to let Mr. Harford know that there was chastisement involved. That is none of his business, mind you but, certainly, I did make the effort to find out whether, in fact, any crime had been committed. I was assured by my attorneys that there was no such crime, there being nothing illegal done and no harm done, as I understood it. There was nothing further that I could have done under the circumstances. I would like to assure this Senate that I do not and would never condone that type of action.

I support this Bill. I would just like to see that some of the little issues are dealt with, and I would certainly do my best to assist the Minister at the committee stage in getting it right. I thank you, Mr. Vice-President.

11.35 a.m

Sen. Prof. John Spence: Mr. Vice-President, I want to make a very brief contribution on one or two points. I agree entirely with the necessity for having both Bills and the fact that they have been brought at this time. I realize that there may be very great difficulty in implementing the provisions of the Bill because of the competence of the persons who are doing incorrect things by using these electronic systems.

With respect to the electronic transfer of funds, the point I would like to raise has to do with the question of notification of the issue of the credit card and this is a point which I raised in a question to the hon. Minister. I must say I have been

given some information by the Vice-president of the Bankers' Association and they have some concern with this issue. In fact, my information is that clause 19 which is a relevant clause was not in the original Bill, so the Bankers' Association did not have an opportunity to comment on clause 19, at least they did not in the first instance, but they may have subsequently commented.

The point of issue here is the responsibility of the cardholder to notify the issuer. Under the current arrangements, it is my understanding that the bank considers the cardholder liable until he has informed the issuer that the card is being stolen, misplaced or lost. Under the provisions of clause 19, the liability is removed from the cardholder almost without limit. There is no time limit under which he may require to notify the issuer of a loss. The seven days as I mentioned, when the hon. Minister was making his presentation applies only to the time between oral and written notice, but the cardholder may stay a month to notify the issuer and there is no penalty or redress on the part of the issuer.

There is also the question of the limiting of the liability of the cardholder to \$500. This means that he has indeed a very small amount to pay irrespective of the value of the extent of his credit. So if the credit is \$5,000, he pays \$500 if that is his liability. If it is \$100,000, his liability is still \$500 and this would seem to be not quite equitable. So perhaps what one could go for is the percentage of the limit of credit on the card as the liability of the cardholder rather than a flat \$500.

The third point is the setting off, of the fee that the cardholders pay to the issuer against the \$500 and I am told that this may not be easy to ascertain considering the way the accounts are being held by the banks, but I think the most important one is the time limit for notification. I must say I have resisted owning a credit card or investing in one until very recently when I had to travel abroad and I was concerned about my health because you may have an emergency with health in a foreign country and may need to pay a sum of money that you may not have in traveller's cheques or cash, so that was my reason for getting one.

I must say that my major concern was loss of the credit card and that the credit card holder must be a responsible cardholder and if the system is set up in such a way that he has no onus on him to report, then this in fact, encourages fraud because the cardholder may, in fact, be in collaboration with a third party to defraud the issuer and give his card to somebody else and not report it to the bank and so defraud the bank.

It has also been called to my attention that there is no punishment for a cardholder who subsequently sells, but a purchase was unauthorized by him. The bank has to prove that there was the intention to defraud in the process in order for there to be some redress. So I certainly think we need to look at the time. What time limit should one impose? The banks clearly would like a short time limit and they have suggested 24 hours. On the other hand, from a card owner's point of view, as Sen. St. Cyr pointed out to me, you might not look for your card every day so you might not know it has been stolen or misplaced. So if one needs to make a compromise between those two competing interests, perhaps we can arrive at some sensible time limit, but certainly, it seems to me that there should not just be an open time like that with no onus on the cardholder to hold his card responsibly and report it if it is being stolen or misplaced.

Mr. Vice-President, with respect to the Computer Misuse Bill, I would ask two questions: firstly, if the person is in another country when he commits the act how do we apprehend him or her? It seems to me that one could only do that by extradition and, therefore, I ask whether it is the intention of Government to change the extradition law to include computer misuse as one of the misdemeanours or crimes which extradition may be invoked. Of course, that would only apply to those countries with which we have extradition treaties, but this is a real problem because I think recently somebody in the Far East who was able to log on to one web site by getting a computer, in fact, the person put that company's email system out of commission for a period of time. So it is possible in a country that you might not have thought of having an extradition treaty where you have somebody committing an offence which affects you, or who may create a virus that may come into your computers and do harm. I think that is an issue at which we need to look.

The final point in the Computer Misuse Bill is in clause 17 where it says:

“A police officer may arrest without warrant any person reasonably suspected of committing an offence under this Act.”

One wonders why it would be so urgent that it would be necessary to “arrest without a warrant”. There are many offences in which one does not have to have a warrant and I would like to hear the rationale why, in this particular case, it is necessary to give the police this power to arrest without a warrant. Those were the main points I wanted to make and I hope that we can do some adjustments in the committee stage to address those issues.

Thank you, very much.

Sen. Prof. Kenneth Ramchand: Mr. Vice-President, I have some questions on both Bills. The first one; it seems to me at some point in clause 4 of the Computer Misuse Bill that a distinction has not been made between the copyright law and the misuse of the computer to access confidential information for use in industrial espionage and so forth, so I am wondering if there is an overlap between this Bill and the copyright law.

For instance, if a friend of mine has Office 2001 and gives me a copy, then we have infringed the copyright law and there might be penalties for that which might not be as severe as the penalties that are being charged in the Computer Misuse Bill and I was wondering whether I am wrong in reading it like that, or whether, in fact, there is an overlap between the copyright and the computer misuse laws.

In the other Bill concerning the cards especially, and the liabilities of the cardholder, I am afraid I am on the side of the cardholder rather than on the side of the banks in this matter. I would think that if the card is being used in a hotel or with a merchant, then it is the merchant's responsibility to ensure that the person presenting the card is the cardholder and similarly, if I go to a bank with the card and try to get money over the counter, then it is the responsibility of the bank to check that I am the cardholder.

With regard to a machine, if I have to insert the card in a machine and get money, I think it is only there I feel that the cardholder could be made liable because for somebody to use your card in the machine, he has to know your number. So I would make a difference between when the card is presented to a person, a merchant or a bank and when the card is being slotted into a machine to get money. As a cardholder, I might be willing to accept liability when my card is being used in a machine and my secret number, which they told me I should never write down, that I should memorize, that is an instruction that comes with the card. Do not write it down, keep it in your head. So if I had complied with what the people who issued the card said to me, the number would be in my head, and the only way somebody could get my card number was if I tell them, or if I am dreaming and I am talking in my sleep about my card number and my wife copies it down. In that case I feel I should be liable.

Sen. Prof. Spence: Mr. Vice-President, I do not know whether Sen. Prof. Ramchand is aware that many transactions are done over the telephone or by email, where the card is not actually presented and the number is given, and this is very common in commerce these days. All that would have to stop if the card has to be presented in person.

Sen. Prof. K. Ramchand: Thank you. Mr. Vice-President, I was coming to that, in that I can see a problem in relation to telephone shopping and Internet shopping, but again, I do not, unless it is like Amazon.com, and even so, I telephone them and give them my account details before I use my card so my stuff is never on the Internet with Amazon.com or any of the big firms through which I am shopping. I can see there is a problem that somebody can get in once you telephone in an order to a company. Again, if I have telephoned it and there is a record that I have telephoned my number to the company, then it is their liability if my card is charged for things that I did not order. I would say for that one, the telephone order, or even the Web order, it is the company to whom I sent the information responsibility. If that is intercepted by some hacker, then I do not feel that I should be liable, I feel that the bank should be liable because they have more money than I.

With respect to liability, I am completely on the side of the cardholder and I would even remove the \$500 for which I would be liable even if they are going to respect me and pay me for the rest, why should I pay the first \$500. I am very strongly against that.

So just to summarize on the Computer Misuse Bill, I wonder whether there is some overlap with respect to the copyright law and the misuse law and if that is so, then I am being charged much more for a copyright offence than I would have been charged normally, and secondly, with respect to the liabilities of the cardholder, I feel it is up to the issuer to put into place devices to make sure that only an authorized user can use the card, and if those devices fail, then it is the issuer or the merchant who should be held liable.

Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, I rise to support the Electronic Transfer of Funds Crime Bill and also join with the others in sharing a concern on that controversial clause 19. I am wondering too, why is it on the loss of a bank card or a credit card, the cardholder could not report to his bank or the issuer within 72 hours on discovery of loss taking into consideration a weekend, not 48 hours. The banks, I understand would prefer 24 hours, but what if it is a weekend, but certainly not seven days.

11.50 a.m.

I would like the honourable Minister to have a second look at the verbal and written notifications with respect to Clause 19. I think that serious attention should be given to both items rather than possibly saying the written notification of a loss is, possibly, more important or that more attention should be paid to that, but in this day and age I think it is very important that the bank should pay

attention to an immediate telephone call about the loss of a card. We should look at giving credibility to both verbal and written notification. Mr. Vice-President, banks are the ones who introduced the use of plastic money. They are the ones who devised that mechanism—using plastic money—the bank cards and credit cards and so on, and I know they are going to have a problem.

We live in an age where people are dishonest and this is one instrument of dishonesty and this is what we are trying to curb and banks are very particular about this. I have a feeling that, maybe, the banking fraternity might be the ones to sit down and find for themselves. I do not believe that this piece of legislation may help them too much. We are attempting at this level but the banking fraternity would be the ones to sit down and to find new mechanisms to protect itself against this new invention and device of the use of plastic money.

I would like to make a comment on an observation on the Computer Misuse Bill, 2000. I know a little about computers; we have been reading about it, we live in that age. I have been told that users of cyberspace would laugh at this Bill. They are going to laugh at this Bill. They are telling us that this Bill is a joke. If I support this Bill—and I will support the Bill—it is an attempt that we are making—because it may have some deterrent value, even though small and limited. But I have been advised by those who have been experts in computers, that the Computer Misuse Bill, 2000 is a good step. Sure, it shows that we are concerned about what is happening. But I have been advised that this Bill is an impossible dream. Maybe, it is a visa card to Fantasy Island. It is wishful thinking. We cannot really control the crisscrossing on cyberspace. It is too big for us. We cannot control the volume of traffic on the Internet. We cannot do it. This is a world that is bigger than ours. Even Bill Gates knows this.

How will you know when somebody is tapping into your computer? In the Internet, there are no secrets. This is a fact. There are no secrets on the Internet. What are we trying? Mr. Vice-President, we know fully well—and this is common now. If you turn on certain stations on the FM radio band, you are going to pick up cellular conversations as clear as if the people were next to you, and it is easy to tape them off your radio. Will there be legislation later on to control that too? Then we are fooling—impossible dream again. Whether to control what is happening in cyberspace as far as computers go, or as far as the cellular phones go.

Mr. Vice-President, do you remember the time when the only users of cellular telephones in this honourable Chamber were Ministers of Government? It was like a new toy that they found a couple years ago. All over the corridor, all over

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the place using the cellular. You see the Election Campaign 2000, we have gone into cyberspace, and the question of the cellular is going to be important on your platforms and computer secrets. These are the new items of 2000 Election. This is the age in which we live. It is telling us now that they cannot—I have heard Ministers of Government say this—really go around sporting this new toy. The cellular telephone is an extremely dangerous toy and also computer secrets.

A young man sitting in his room can tap into somebody's account because we are all linked to the Internet. It is unintentional tapping and hacking, and if he gets into the bank's system—just as I am saying, concerning the use of the cards—they have to find a way of controlling, monitoring that and stopping it, if the intention and the concern is for confidentiality. Mr. Vice-President, do you know what a banker told me? "The day is coming and if they really want to keep their secrets confidential and to themselves they have to go back to the old typewriters and the cards. This is what they have to do. If you really have to get into the secrets of the bank it will not be connected to your computer system because you are on the Internet with them, and that you really have to commit another crime. You have to break into the bank, and there are security systems for that.

This is reminding us how careful we must be in the new age in which we are, the age of cyberspace. This wonderful new exciting world which is causing an embarrassment to us. I will support the Computer Misuse Bill. It is an international concern to control and monitor what is happening out there. The main purpose of this Bill is to prohibit unauthorized access. You cannot do that. That world is far bigger than this Bill. It is too wide. Cyberspace is full of mysteries. "To prohibit the unauthorized access, the use of or interference to any programme or data held in a computer." Impossible dream.

Thank you, Sir.

Sen. Martin Daly: Mr. Vice-President, there can be little doubt that, generally speaking, these two Bills are worthy of our support because as fast as the world develops you must have the legal infrastructure and the legal paraphernalia that regulates those developments. I think that is a very simple concept. Perhaps I could tell a little story. I always like to tell stories based on real-life experience.

12.00 noon

Some of us will remember that very many years ago a distressed young man attempted to hijack a plane that was on a domestic route between Trinidad and Tobago. Hijacking had come into prominence, but perhaps it was not as regular

an occurrence worldwide as it is now. Of course the attempt was a bit of a farce and it failed. The young man was arrested and he was charged with a crime; but there was a very real difficulty at the time—what was the appropriate charge? We had no offence that covered hijacking on our books and we had no offence that certainly carried an appropriate penalty.

I cannot remember the details with which he was charged but it certainly was a million miles—I think he was ultimately charged with some offence concerning assaulting and battering the stewardess whom he may have held up. That is how they got at him for attempting to hijack a plane and I think the maximum sentence for—I think it must have been an assault, from what I recall. The maximum sentence was five years and, of course, there was no offence on our books at the time but subsequently I believe that was rectified. So that is what I mean when I say that these Bills are generally deserving of our support because, as the world develops, one must have the legal paraphernalia.

I remember the case of that young man very well, because, like those of us who, all our lives, have done *pro bono* work, I was asked to make a plea of mercy on his behalf. It had a very amusing outcome with which I would not bore Senators now. We can discuss it over the lunch break. Suffice it to say, despite the stirring plea of mercy he got the maximum anyway because the maximum was not enough for what he had done. So, there is no doubt that we have to provide the legal paraphernalia and the legal infrastructure as we go along. However, this is a very appropriate opportunity on which to comment generally or to stimulate debate about how our society, and our regulators in particular, tend to treat with information and tend to treat with freedom of expression. We seem to have a very—which is what these Bills are about.

These Bills are attempting to deal with the freedom of information that is all-pervasive in the modern world and yes, of course, if somebody abuses a computer or perverts it for a purpose for which it was not intended, of course we must have a penalty attached to that. Sen. Rev. Teelucksingh, of course, is entirely right that the prospects of us catching the person are very remote but we must have the penalty there, and that is why I gave the example of the young man and the hijacking. There may be some case in which it is possible to catch the person, so there must be the appropriate—although the prospects of us ever catching anybody are very remote, we must have the law there.

However, in my respectful view it would be much better to consider what we are saying in these two Bills about information and free expression. This is because the society and our Governments—always with a capital G, whether it is

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this Government, its predecessors or its successor—have a very ambivalent attitude toward these things. On the one hand, we are told that this Government is in favour of the freedom of information—“Look, we passed freedom of information legislation”. On the other hand, when revelations are made—whether they are valid or not time will tell—by unorthodox means, but means that are entirely within the reach of many average citizens, then there is a huge outcry about, “How you get this information?” and “We must stop it”.

May I say that generally, being a civil libertarian—and let me choose a hypothetical example—if someone is able to tell me that there is someone in authority—and I am using a wildly hypothetical example because I do not want to get drawn into any of these petty squabbles about who said what about Caroni land, or anything else. If someone was able to find out that someone in authority had a small vial of Ebola virus which they had managed to import from Uganda, and that they were intending to keep that Ebola virus in a safe place until some political or financial demand was met, and that they were planning such a thing, well, you know, Mr. Vice-President, I would not care whether they got it by tape, by scanner, by cellular telephone, by “macoing” at a door or some enterprising journalist found it out. Even if they broke and entered I would not be too concerned, because I would want to have that information freely available to the public.

Now, I have deliberately taken an extreme example. So I just want to make my position very clear. In supporting these Bills, let me say for the record that there is no way that I am to be taken to be supporting any spirit of suppression that may be pervading the land in certain quarters. I want that to be very clear and I hope with my colleagues—I am sure that my colleagues would think in the same way. We are providing the legal infrastructure in order to prevent certain abuses, whether it is in electronic banking or whether it is in computer use. However, let us be very clear, and I would like to be very clear and I would like to stimulate debate about the ambivalence in the society about information.

Apparently when the information suits us, we focus on its value. When the information does not suit us, we focus on how and whether it was properly obtained and I would like to stimulate some debate on that. We must be therefore very clear that these Bills are not being passed to right any specific wrong or anything that has been debated. They are a necessary part of the regulatory apparatus of a modern state. That is what they are. They are not there to show that the Government is fighting crime or anything of the kind. So, Mr. Vice-President, while I welcome these Bills, I would just sound a realistic note about why, in my view, they are important and worthy of support.

Now, with regard specifically to the Electronic Transfer of Funds Crime Bill, Mr. Vice-President, I wish to join the debate that has developed over clause 19, but may I say that I propose to approach it in a very general way. This is because, let me repeat as I do on each occasion when anything concerning banking comes before this Chamber, I have professional and business links with financial institutions and I declare my interest. Having said that, in committee I will make some suggestions about clause 19, but what always astounds me about how we do things is, we do not seem to ever put the pendulum in the middle when we legislate.

There have been very many hard cases—I had one in my own family—where people’s credit cards have gone astray, to use a neutral language, and they have faced a very steep bill—US \$10,000; US \$4,000 depending on the limit of the card—because usually the perpetrator, to use the dreadful jargon phrase, “maxes out” the card. That is, they spend until they cannot spend any more, and there have been very many hard cases deserving of relief. However, I just question, Mr. Vice-President, whether the way to deal with that is now to swing the pendulum to the other extreme because, really, under this legislation, someone who is smart will give the crook his credit card for a cut of the take because he no longer has any responsibility.

If one has seven days to report the theft and one is only going to be liable for \$500, then I see a new industry tomorrow. Someone would hand his credit card to the crook, let him do the transactions and that person would take a cut because they would only be liable for \$500. So what is the problem? I think in all legislation—I am using this as a general example to show that whenever we have a problem we do not ever seem able, at least until sometimes the Senate gets involved, to find the middle ground. Therefore, when we pass legislation like this, what is the philosophy, that we are freeing people from all personal responsibility?

There must be a world of difference as to, for example, the circumstances in which one keeps one’s credit card. I would have thought that one of the things we could discuss when we get to committee is whether we are not going to divide the responsibility in some way; whether, for example, we would not introduce the concept that one can only have the benefit of the \$500 limit in the absence of gross negligence on one’s part. I mean, people are preoccupied. They may take their credit card out to do a transaction—it has certainly happened to me. I certainly left my credit card on a hotel desk in New York and, by the time I got to the room and remembered I had left it there, well, boy, nobody knew anything. I mean, I was just preoccupied; I was tired and the flight had not gone well. These things happen.

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On the other hand, if by the same token one arrives in one's hotel and, despite signs all over—the door and everywhere else—advising that one must get a safety deposit box, one tosses one's wallet on the counter, leaves it there, goes and fires some drinks with one's partners and then comes back and says, "Oh my, my credit card is missing", is that person really deserving of the \$500 limit in those circumstances? So I hope in committee we will find some way—and I only bring it up, Mr. Vice-President, not because I want to give any advantage to the banks but because I think that we have to introduce some concept of personal responsibility whenever we legislate, and we have to try to find the middle ground.

In all of these arguments that go on in our frenzied society these days, everybody takes up such polarized positions. Certainly in the terms of legislation, and I say it without fear of contradiction, it is left to the Independent Senators within reasonable working hours to try to agitate some of these compromises. However we cannot as legislators, particularly in the Senate—and my remarks about working hours and the other burdens of the Senate are deliberately misunderstood sometimes. As far as I know, the purpose of the Senate is to step back and take a less partisan, a cooler and usually more deliberate view of things.

So, Mr. Vice-President, while I am suggesting that we may need to take more of a middle ground on this particular provision, let me take the opportunity to restate, as far as I am concerned, that is the purpose of the Senate. If the Senate becomes a Bill factory, then the only rationalization for having a second Chamber completely disappears. I, myself, and I believe I speak for many of my colleagues, will resist the Senate becoming a bill factory. I will resist the creating of conditions where, for those of us who have full-time lives—unlike full-time politicians we have full-time lives outside of politics—arrangements have to be made to accommodate our views, otherwise we could as well abolish the Senate. This is a perfect example of where, in committee, we will try to find a middle ground—I am staying away from the details of the particular provision—otherwise, having an upper Chamber serves no useful purpose.

So let me put it on record once again that the Senate is not a bill factory. I am not suggesting that anything of the kind is happening today. It is daylight for one thing. It is a Tuesday for one thing. If it were a different day of the week or in the middle of the night, I would take a completely different view. So I am not suggesting that there is anything wrong with the manner in which these particular Bills have been presented. I am just taking the opportunity, in relation to this small clause and a problem that it creates, to show what is the function of the

Senate and to show how, as legislators, we should try sometimes to find the middle ground away from the hurly-burly of personal feelings. Thank you, Mr. Vice-President.

Sen. Prof. Julian Kenny: Mr. Vice-President, I have just a brief question to ask the hon. Minister. We are a small country and I wonder whether our card providers might not be required to use technology, which I understand is now available, that is, to put a photograph of the owner or the cardholder on the card. This is used for elections and it is used for driving permits, and I have seen it. Card issuers in our country make great profits so it should be in their interest to protect us as customers by a simple use of 2000 technology. Thank you. [*Desk thumping*]

The Minister of Trade & Industry and Minister of Consumer Affairs (Hon. Mervyn Assam): [*Desk thumping*] Mr. Vice-President, I would like to thank all of the Members opposite who participated in this debate for their various contributions. Certainly it is better to be here than in the other place where the contributions are so much more tedious and lengthy.

12.15 p.m.

For example, the last speaker, Sen. Prof. Kenny was mercifully brief, for which I am so grateful and his contribution was so relevant and incisive. I do agree, and I could not understand why after all these years, credit cards continue to be without a photograph of the holder when, in fact, some credit card issuers do put your photograph on them.

I think, when Citibank used to have a credit card they used to have your photographer on it in Trinidad and Tobago. I believe that is the only bank that used to have a photograph of the cardholder on it but I think they have gone out of that business. They have sold it to another financial institution and the practice has not been used with the other financial institution taking over that portfolio. I think it is an admirable suggestion which, I believe, I would like to—in my capacity as the Minister Trade & Consumer Affairs—suggest to the banking fraternity. So I thank him for that wonderful suggestion.

With respect to Sen. Daly, I always like to hear him speak in this honourable Senate, although sometimes I wonder whether that cool non-partisan view of things is, more in the theory rather than in the reality. [*Laughter*] Sometimes I find his language is so inflammatory that one begins to wonder whether he takes the middle ground and whether, in fact, his role as a Senator which he seems to define sometimes is that role which he exercises more in the breach than in the

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norm. [*Laughter*] Mr. Vice-President, as he seeks to exculpate himself from his fatigue and tiredness over a delayed and unfortunate flight that he could leave his credit card on the desk of the reservation section of the hotel, he punishes another person who may have left his or her wallet on that very desk and went for a drink—perhaps, to relieve himself of the stress and distress of an unfortunate flight.

Sen. Prof. Spence: Mr. Vice-President, I have been in this Senate for 14 years and I have never heard such a direct attack on an Independent Senator. [*Desk thumping*]

Hon. Senator: That is not an attack.

Hon. M. Assam: I am amazed that Sen. Prof. Spence has come to the defence of a Senior Counsel when I am not aware that Sen. Prof. Spence has any training in the law. [*Laughter*] But more than that, I never meant any offence to Sen. Daly, I was merely trying to describe the situation as objectively and dispassionately as possible.

The Senator went on to describe a cardholder as a “crook” and that a whole industry could develop around this form of crookedness which is most unfortunate. As Minister of Trade & Consumer Affairs, I passionately support the cause of consumers in Trinidad and Tobago and a cardholder is a consumer. Even if out of 1.4 million persons in this country—if maybe 30 per cent are cardholders—so let us say 350,000 are cardholders—it is my view that out of the 350,000 cardholders, you may have a very miniscule percentage practising any kind of trickery or crookedness. So, I would not like to describe this as a potentially flourishing industry for crooked cardholders.

Mr. Vice-President, but, of course, Sen. Rev. Teelucksingh, a man of the cloth, understands the venality of man, being born in original sin and, therefore, I can quite understand why he can speak the language of Don Quixote de la Mancha, the impossible dream. I have often said, in my romantic moments of soliloquy, that following the great Spanish poet, La Vida es Sûeno, life is a dream. If we do not dream, even the impossible dream, we will get nowhere. This is why this Government has done so much in five years because of that impossible dream that we have all had [*Desk thumping*] and that is why we have been able to accomplish some modicum of success, in every department of human existence in this country during the last five years. To say that this Bill is an impossible dream; it is a visa card to fantasy island; and it is wishful thinking, I think is unfortunate, because I do agree with Sen. Daly that every country must put legal infrastructure in place to deal with technological developments.

The Senator gave a very apt description of the young man who—because we did not have appropriate legislation on our books for hijacking and skyjacking—had to be charged under another law and given a penalty of five years, which Sen. Daly himself agreed was inadequate for the crime committed and it is because we did not have the legal infrastructure in place.

Mr. Vice-President, even though cyberspace has gone ahead of us, and even though we may not be able to come to terms with all that is taking place in the technological world, Trinidad and Tobago would be still, in a sense, a developed society when we have legal infrastructure and all of that in place, whether or not we catch any perpetrators in the future.

Clause 19 seems to have had a fair share of disquiet among hon. Senators, even though Sen. Prof. Ramchand disagreed with the rest of his colleagues. I am not in possession of the Copyright Law at this point in time as to whether it overlaps with clause 4 but, it seems to me, not even the *Bible* can take care of every sin or virtue that man would engage in. There is no document written by human hand, although it is said that the *Bible* was, inspired by the Holy Spirit. Not even the Prophet Mohammed, when he wrote the *Holy Qur'an* that was inspired has everything in that document that would guide the behaviour and conduct of man.

So, it seems to me that you have to take it one step at a time. That is why from time to time governments have to come back to the Parliament to modify and review legislation because of the passage of time and what has taken place over that time. And, therefore, we are always willing and prepared to come back to the Parliament if supervening events indicate the imperative of reviewing and revising legislation which we have passed in this honourable House, so we have no problem with that. So that this is just perhaps; a small step in the right direction in terms of the technological crimes such as cyberspace crimes, so that Trinidad and Tobago can, at least, have the infrastructure in place in the event that someone or some institution is caught.

Mr. Vice-President, Sen. Prof. Spence himself disagreed with clause 19(6). He said that there was no penalty for a cardholder who is in collusion with someone else in the commission of a card fraud—I am paraphrasing what he said. Well, certainly, there are other laws on the books. These two pieces of legislation are specific; they are very specific to computer misuse and electronic transfers and, therefore, there are other pieces of legislation in the criminal law, which will take care of someone who perpetrates a fraud. I do not know the specific legislation because I am not a lawyer, but I am absolutely sure that there is some legislation

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on the books that takes care of fraud—the perpetration of fraud—whether it is by a cheque, a credit card, a debit card or whatever. So there is no need to duplicate that in this piece of legislation because we want to focus on the specific question of computer misuse and electronic transfers.

The Senator suggested that there should be a percentage of the credit limit in terms of the liability of the cardholder. Well, I think, this is introducing a cumbersome formula because there are a number of different levels that people have both in \$TT, \$US, £s and Deutschmarks and so on, so you will have an interminable number of various ratios to deal with and, therefore, you will complicate the system even more.

12.25 p.m.

It seems to me that one figure for everybody is very appropriate and why do they want to put the onus on the cardholder even though there may be some villain misappropriating his card? There may be some careless or reckless person who did not take care of his card, but in the main, it is my view that someone who has a credit card holds on to that credit card with a certain amount of safety and a certain amount of surety, like one's driver's licence, one's passport or any document one needs to have for identification for a particular purpose, like one's identification card.

One does not throw away these things or leave them carelessly around. It is like one's Bible. A reverend does not throw away his Bible. He keeps it under his cassock all the time. It is like what one does to one's credit card, to one's driver's licence, to one's passport and to one's ID card. Therefore, the onus ought to be on the financial institution, in my view, because I agree 100 per cent with the suggestion of Sen. Prof. Kenny, but more than that, when one tenders one's card to a business place which has a relationship with the bank—because they have to pay the bank a certain percentage of the transaction, I understand in some cases it is as high as 10 per cent, 5 per cent, 4 per cent and in some places 2 per cent; it varies from bank to bank and from institution to institution—they have a responsibility to ensure that the user of that card is the person to whom they are selling the good.

Finally, one must give the responsibility to the financial institution for any use of that card in the financial institution. It is like cashing a cheque. When one goes to encash a cheque at a bank, they are supposed to identify the person cashing that cheque, and if they cash the cheque for the wrong person, the bank is liable. It is no different with a credit card.

Sen. Ramchand spoke about using the card in one of the machines. Surely one has to use one's Personal Identification Number (PIN), as I understand it, but the way these ATM machines are located, it is easy to see someone punching in a PIN in all these or most of these, because many of them are not private and secure. In fact, many robberies have taken place. As someone gets out of a booth or an area, particularly on a weekend or late at night, he is robbed at gunpoint because of where these things are located. It is also quite easy for someone to be using his PIN at the machine and another person who wishes to commit a crime sees what is going on and gets the PIN of that card. Again, it is not the fault or the carelessness of the cardholder. All of these things could happen.

I believe that one must locate responsibility somewhere. One cannot diffuse responsibility. It is a principle of management to locate responsibility where responsibility ought to be located, and I think in this case, responsibility ought to be located in the financial institutions and in the various business places that have a relationship with the financial institutions. Therefore, I cannot see a middle ground in this particular regard, because a middle ground would mean that financial institutions and the ordinary cardholder will have to suffer the same kind of losses. I do not think that could be equitable in terms of relationships.

What is wrong with the whole question of seven days? I do not know. Some people say seven days is too long a period, some say 72 hours, some referred to the question of a weekend. What would happen over a weekend? Someone said if we are in Timbuktu, how would we do these things. We go to the extreme in this particular situation and try to drag into the debate some almost impossible situations that human beings can encounter. As far as I am aware, I have had a credit card since 1966—

Sen. Shabazz: Not in Trinidad!

Hon. M. Assam: No. I lived in Canada. *[Laughter]* I have never lost it, but they tell us if we lose it, there is an 800-number we can call. We can get our card back and get moneys replaced and all sorts of things. With technology today, there are faxes, email, electronic transmission of advice. There is no end. So, whether one is in Timbuktu, and a lot of people tend to denigrate Timbuktu. There was a great university in Timbuktu long before western civilization ever began to develop knowledge and science. What is wrong with Timbuktu? What is wrong with these African countries? They are equally developed.

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I had a great opportunity when I was High Commissioner to London to go to 17 African capitals. I went to the French, the Belgian, the English and the Portuguese, and I found that a lot of these capitals are more developed than some of the western metropolises I have visited. What is wrong with Timbuktu, I do not know. Why do we use Timbuktu in a denigratory fashion? Because black people are stupid and backward! *[Interruption]* Why? I am not saying they are. I am saying it is as an example to denigrate them as if they are stupid and backward! Do not misquote me. Do not say I! I am defending Timbuktu and black people and Africa! That is what I am doing! *[Desk thumping]* Let us use proper examples in this honourable House about these things.

Sen. Prof. Spence: Mr. Vice-President, I think there is some confusion and I think the Minister is, perhaps, misunderstanding the legislation. There is no time limit for reporting the credit card in this legislation. The time limit only applies to the time period between oral report, whenever that may be, and written report. What I understood Sen. Teelucksingh to suggest is that it be 72 hours for an oral report or any report, but I think the Minister is misunderstanding the legislation. There is no time limit for the first report. The only time limit given in clause 19(6) is the time period between the oral report and the written reported.

Hon. M. Assam: I was coming to that. I think it is quite clear in 19(6). The language of business is writing. Everybody knows that. Sometimes one makes a telephone call and leaves a message. The person may have written it down on a slip of paper and lost it. The person may have intended to write it down but they were talking on another person on their side and omitted to write it or transmit it. These things do happen. The language of business is writing. Therefore, in the final analysis, even after a telephone communication, one should follow up in writing. That is what 19(6) says:

“NOTICE UNDER SUBSECTION (4) TAKES EFFECT WHEN RECEIVED, BUT WHERE IT IS GIVEN ORALLY, IT SHALL BE TREATED AS NOT TAKING EFFECT IF NOT CONFIRMED IN WRITING WITHIN 7 CLEAR DAYS.”

This is lucidly clear. I do not know what is the problem with it. It is so clear that I do not understand what is worrying certain Senators. It is very clear. The language of business is writing. They must have something on file saying Mervyn Assam lost his card in Timbuktu, he made a telephone call and then he followed up on it after in writing. There is something in writing that I followed it up. What is wrong with this? The drafter of this clause, to me, must be given full marks!

Sen. Montano brought up a point which I did not quite understand. He said that hacking was not illegal, although he would not condone it. What is more important, Mr. Vice-President? Not the moral law? The highest law is the moral law. That is the highest law! Whether it is written in books or legislation, the highest law is the moral law, so whether it is or is not in the books, it is wrong! Totally wrong! Because it is immoral, even if it was not in the statute books of Trinidad and Tobago, so let us not try to split hairs and make a distinction about whether it was legal or not. It was immoral, totally!

Then he speaks about there was nothing in the piece of legislation to deal with manual situations. A lot of small businesses do not have computers or alternatively, one may go into a bank and one may see somebody's deposit slip or the computer may have turned around, which is most unlikely. I have never seen that happen. I have been visiting banks the greater part of my life and I have never seen the computer turn around. *[Laughter]* It is always facing the teller, never facing the public. How could that turn around? I do not know if we have swivel computers now. That may be so. I do not know. The technology is moving so rapidly.

Be that as it may, when a slip is generated, whether it is a slip to deposit money or a slip to withdraw money, that slip goes through the computer system and becomes part of the real-time online operations of all banking institutions. I do not understand this. Where do we live? That is a fact. Whether one is withdrawing or depositing, that deposit slip is put into the computer and it becomes real-time online. *[Interruption]*

He admitted that he did not have time to read it, but so be it. There must be legislation in other Acts of Parliament to take care of anyone who uses information, even if it is generated manually in an unauthorized fashion. There must be some law on the books.

Again, I wish to point out and emphasize that we are dealing with computer misuse and electronic transfer, so we do not want to get sidetracked. We want to focus on the business before the House rather than get involved in all kinds of little lanes and little side streets, and so forth, today.

He said that this Government has made inappropriate use of information such as mortgages, and so forth. I wonder if the hon. Senator was in the other place when that discussion started? I was the first one attacked by a Member in the other place! I was the first one to be attacked on that sordid exchange! I had to tell the honourable person in the other place that I would like him to go outside

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and make that statement about me. He would not be able to do it. *[Interruption]*
I am not a violent person like you. *[Laughter]*

Shabazz: I am!

Hon. M. Assam: I would have taken the necessary action to clear my name because I am a man of integrity. *[Desk thumping]* I was the Chairman of the Joint Select Committee to deal with legislation regarding integrity in public life. Never forget that!

Mr. Vice-President, it is a question of unfortunate exchanges among Members, but it was started in the other place by Members of the Opposition. It was unfortunate that all of this emerged subsequently. He does not even know that, where it started. When one sets fire, it becomes uncontrollable, Mr. Vice-President. Do not set fire if one cannot control it. It becomes uncontrollable.

Sen. Montano: Are you justifying it?

Hon. M. Assam: Not at all, but I said sordid. Apparently you do not know the use of the English language. I said sordid! I said that all these things, I condemned them, but it started with the other side. When one sets a fire and cannot control it, it just burns away.

Sen. Shabazz: That is why they did not send you back for elections!

Hon. M. Assam: It does not matter. You are looking for a job. I am not. *[Laughter]* He does not know my pedigree? If he did, he would know I am not looking for a job. I had the best jobs in this country and in the world! *[Desk thumping]* *[Laughter]* When I am in people's culture, I respect it, not like you. Mr. Vice-President, he did not understand.

Sen. Rev. Teelucksingh: Mr. Vice-President, I am very troubled by responses from the hon. Minister. I am very disturbed. I have a great respect for him and always will, but I am very troubled as to the level he is taking us in this debate. We all—I am talking for my bench—support both pieces of legislation. We have expressed little reservations here, but we support the Bill. I do not see the need for us to be so personal as he is doing. I am very troubled and disturbed about that.

While I am on my feet, I would like him to respond to one of our concerns on the Computer Misuse Bill. I know he is winding up. Clause 17 says that a police officer may arrest without a warrant, any person reasonably suspected of committing an offence. I would like a response on this clause in the Bill, and I

wonder if—we find it very harsh, this provision for the police to be given those powers to arrest without a warrant. Are there plans to make our police officers so computer literate that they will be able to understand the implications of this Bill and, at the same time, they will be empowered to make this kind of arrest? I thank you, Sir.

12.40 p.m.

Sen. Shabazz: Mr. Vice-President, I just stand to say I understand the hon. Senator saying that he is very puzzled at that type of behaviour on that Bench. On this side, we are really not puzzled. We do not expect much better from the hon. Minister.

Hon. M. Assam: I have no difficulty in being censured by Sen. Rev. Teelucksingh—no problem at all. If he censures me, I have no difficulty. I will submit myself to the censure of even little children, far more the distinguished Reverend Senator.

Sen. Montano said he did not understand clause 2(2)(b). I do not understand why he does not understand it. It is so clear. It says:

"(b) he does not have consent to access the kind of program or data in question from the person who is entitled to control access."

Maybe he did not read it properly—the person entitled to control access.

I will give you an example. My Permanent Secretary is the boss of my Ministry. There are certain levels of access that she controls. People who are at a certain level of the administration will be able to access certain data as they go up the ladder. She is the person who is entitled to control access. What is wrong with the clause? That is how it should be read—a person who is entitled to control access to the computer, to the data and to levels of data. What is wrong with it? Just read it properly and you will have no difficulty. He said I did not read the Bill. Who did not read the Bill? Me? They say I am misbehaving.

Clause 17. Why should you give a police officer power? It is the same problem that was raised about extradition. How do you catch someone, having committed a crime, either of computer misuse or electronic transfer, who goes to another jurisdiction, unless you have the power of extradition as a result of an extradition treaty with a foreign government? Before he leaves, you arrest or apprehend him. The police, having sufficient reason to believe that a crime is being committed or is about to be committed, should be able to move in swiftly and quickly to apprehend that person, lest that person, after having committed the crime, skips the country. That is the simple explanation.

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It happened recently with a drug case in this country where a person who was before the court and was acquitted, was allowed to leave the country even before the appeal was heard. There are several difficulties in place now to bring back that person, who is a foreigner living in a foreign country, for the appeal to be heard. That is the basic reason. You do not want people to commit crime and leave the country very quickly and you cannot apprehend them nor extradite them.

Therefore, a police officer who has reason to believe that a crime has been committed or is about to be committed, must be given the power to enter the premises to apprehend before that person skips. It is a simple explanation and I hope my honourable friends opposite and particularly, Sen. Rev. Teelucksingh, who raised it, will accept that explanation.

I think clause 13 was raised by Sen. Montano on the Electronic Transfer of Funds Crime Bill. He had a difficulty with clause 13. Let me see if I can address it. It says:

"A person who receives money, goods, services, or anything else of value obtained in breach of section 13, knowing or believing that it was so obtained commits an offence and is liable on summary conviction to a fine of thirty thousand dollars and to imprisonment for two years."

He said he did not understand what is meant by "so obtained". From my simple understanding and reading of the clause, I do not know what is difficult about the phrase "so obtained". Sen. Daly is a lawyer and I am sure he will have no difficulty in accepting the phrase "so obtained". It is normal drafting language. I do not know what is the problem.

Sen. Daly: Why are you bringing me into it?

Hon. M. Assam: Well, I am bringing you into it simply because I know you are a lawyer. You are an S.C. according to your nameplate and you seem to have favour with both the private and public sectors in terms of litigation because of your successes.

Sen. Daly: Thank you.

Hon. M. Assam: I think those were the areas that were raised and if I appeared to be disrespectful to anybody, in accordance with what Sen. Rev. Teelucksingh has said, it was never my intention to disrespect anybody. Perhaps it is a style—

Sen. Daly: On a point of order, Mr. Vice-President, now that we are cooling down. If the Minister is sincere, is he prepared to withdraw the following remarks that he made in the course of his winding up? He accused one Senator quite "pellucidly", to use his word, of "bias". He accused another Senator of being "violent". Is he prepared to withdraw those remarks?

Hon. M. Assam: If I accused a Senator of being violent, I withdraw it. What is the other one?

Sen. Dr. St. Cyr: Bias.

Hon. M. Assam: If I accused a Senator of being biased, I withdraw it. Any other accusations I made that were unpalatable? I withdraw them. I have no difficulty in withdrawing anything that was felt offensive to any Member of this Senate because, as I have said, it was never intentional.

With these few remarks, Mr. Vice-President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Mr. Vice-President: Senators, I think it is appropriate at this stage, before we go into committee, to have our lunch break. We will now recess for lunch and resume at 1.50 p.m.

12.48 p.m.: *Sitting suspended.*

1.52 p.m.: *Sitting resumed.*

Hon. M. Assam: Mr. Vice-President, I would like us to deal with the Computer Misuse Bill first.

Mr. Vice-President: It should be the other one. The Bill that we have looked at is the Bill to regulate the transfer of money electronic terminal.

Hon. M. Assam: We wanted to do the Computer Misuse Bill first. Is that possible?

Mr. Vice-President: We have not put that question as yet.

Hon. M. Assam: Okay, let us proceed.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: We will deal with the Electronic Transfer of Funds Crime Bill. There is one amendment circulated by Sen. Daly. The Bill has 20 clauses, and I propose going through it clause by clause.

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Clauses 1 to 12 ordered to stand part of the Bill.

Clause 13.

Question proposed, That clause 13 stand part of the Bill.

Sen. Mark: Mr. Chairman, in clause 13 instead of "...a breach of section 13" it should really be "...a breach of section 12". Could you just amend that for us please?

Mr. Chairman: We would consider that as a typographical error, as opposed to an amendment. The reference on the second line to clause 13 should be to "section 12" instead of "section 13".

Clause 13 ordered to stand part of the Bill.

Clause 14 ordered to stand part of the Bill.

2.00 p.m.

Clause 15.

Question proposed, That clause 15 stand part of the Bill.

Mr. Assam: Mr. Chairman, in clause 15(2) line three, instead of seven working days it should be seven clear days.

Mr. Chairman: We have an amendment to clause 15(2), replace the word "working" to the word "clear". Everybody got that?

Mr. Assam: According to the definition it should be clear.

Question put and agreed to.

Clause 15, as amended, ordered to stand part of the Bill.

Clauses 16 to 18 ordered to stand part of the Bill.

Clause 19.

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

Mr. Chairman: Hon. Senators, there is a proposed amendment by Sen. Daly which reads as follows:

"19(1) Insert after the words 'shall not' in line 1, the words '(unless he acts in collusion with another person)'"

Mr. Assam: Mr. Chairman, I have no problem with accepting that amendment. So that in line one it should read:

"A cardholder shall not unless he acts in collusion with another person be liable."

In the second line of the same clause 19(1) after the words "card by" instead of "another" replace that by "any person".

Mr. Chairman: Sen. Daly, the first amendment is yours. I suggest for consistency with drafting principles that the brackets be removed. We do not normally put brackets, so the words would appear without brackets.

Sen. Daly: I accept that, Mr. Chairman.

Mr. Chairman: The second amendment that the Minister is suggesting is that the word "another" in line 2 be replaced by the word "any". Shall we take those amendments collectively? Everybody got those?

Sen. Prof. Spence: Mr. Chairman, have we got the whole clause or just 19(1)?

Mr. Chairman: The whole clause.

Sen. Prof. Spence: I would like to make a comment on the whole clause.

Mr. Chairman: Do you have other comments on clause 19?

Sen. Prof. Spence: I do not have an amendment to move, I just want to make the comment that I still urge the point of view that a time limit should be given during which the cardholder should report loss or theft of the card.

Mr. Chairman: I think the Minister has commented on that already.

Mr. Assam: Subclause (6) seems to be, in my view, quite adequate.

Sen. Prof. Spence: Mr. Chairman, subclause (6) does not deal with the point. It deals with the time to give written notice after oral notice has been given. It is the first notice that I am referring to; in my opinion the cardholder should not have an indefinite time period during which to report the card. As the legislation stands he could report it a year after, because there is no time limit. The only time limit given in the legislation is the time limit between the oral reporting and the written reporting.

Mr. Assam: It seems to me, with the greatest respect, that that cannot make sense, that he has an indefinite period to make the oral report, when, in fact, he has seven days to do the written report. How could you have a year to do an oral report, when you are confined to a seven-day period for the written report?

Sen. Prof. Ramchand: That is seven days after the oral report. [*Crosstalk*]

Sen. Daly: I, frankly, do not understand this section. I am probably being very slow today; I understand what the first part of subclauses 1, 2, and 3, do. Subclauses (1) and (2) place the burden now on the bank, generally speaking, subject to a certain monetary limit, and subclause (3) deals with where the person consents.

I do not understand the meaning of subclause (4). I simply do not understand it. Let us forget the time periods for the minute. What does it mean that once you have given notice to the issuer of the card—what is the practical effect of subsections (1) and (2) not applying? Once you have given notice to the issuer, he is going to stop the credit anyway, so I do not understand what is the purpose of clause 19(4) at all. While you have not given notice, the bank is liable, and then when you give notice, they are going to stop the credit anyway, so what is the meaning of subclauses (2) and (3) “shall not apply?” What is the purpose of it? I just do not understand.

Sen. Prof. Ramchand: What if it means that once you have given notice, if nobody has used your card at that point, you would not even be liable for the \$500 as the card holder? If at the point when you serve notice, your card has not been used by anybody else, then you would not be liable for even the first \$500.

Mr. Assam: Precisely. Notwithstanding what I have said, we would like to take up Sen. Prof. Spence's concern, and we will do it in clause 19(4). We would say in line two “the issuer has been given oral notice immediately or within two days.”

Sen. Prof. Ramchand: Logically, that can only mean within 48 hours of the discovery of the loss. I could have lost my card in January, and since I do not use it often, I only discover in March that it is lost.

Sen. Daly: On this whole question of notice—really, anyway—leave it so, that is what we have courts for. This whole question of notice has not, with the greatest respect, been carefully thought out by the draftsman. [*Interruption*] I think we have free speech, just let me finish. I do not think clause 19(4) and (6) are workable in the form in which they are drafted. That is my comment, and I think we need to look at it dispassionately to see if it is workable. I have never seen something which says that it takes effect, but then it “un-takes” effect if something else happens. I am just not familiar with the style of drafting. That is all I would say.

Mr. Assam: Let me address what Sen. Prof. Ramchand said—that you may have lost your card or whatever it is, for months, and only when you have discovered you have lost it, then you report it immediately or within the two days that we are suggesting here. If you are really a card user, it is inconceivable, in my respectful view, that you could have lost your card for months and not discovered that loss.

A card user uses his or her card on a weekly basis, to the grocery, to the petrol station or to whatever it is. It is not only when you travel abroad. I could see, for persons who travel abroad, you may not be travelling frequently, for example, certain business people may travel two or three times, but, certainly, in your own country you would use your card, sometimes daily or weekly. It is inconceivable that you would have lost your card and not discovered it in months.

People use their card for a number of reasons: convenience, for credit, and you do not have to pay interest for sometimes 45 or 50 days, until you get your statement. So people use their card conveniently all the time in nearly every transaction, once you have your limit available to you. I do not think it is possible to have lost your card for months and you do not know it.

Sen. Montano: Mr. Chairman, that is not exactly so. I know of situations where cards are not used for months on end, but the point that Sen. Prof. Ramchand is making is extremely valid. There may be several weeks, particularly if you leave your home, for instance, with some of your cards and you leave some other cards at home, and your house is broken into, you may not know that until you return home some one or two weeks later. I think you have to put down a position where, at least, you report it on discovery. You cannot make presumptions about the use of cards.

Sen. Daly: Mr. Chairman, may I support what is being said. Some of us have some experience in banking matters. Many people hold more than one card. Some people hold a card that is valid only in Trinidad and Tobago and a separate card that is valid abroad. I know, from my professional experience, that a lot of the time these difficulties arise with people only when they go for the card they use abroad.

Many people have cards that are validated for use in Trinidad and Tobago only, and it is only when they look for the foreign card because they are travelling—or some people have Award cards which they only use for a particular transaction, and it is only when they look for it that they discover it missing. I do not think we should work on the assumption that people have only one card which

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they use all of the time. That increases the difficulty about these notice provisions, because if you tie it to discovery, the discovery may not be immediate. I really think we need to look at these notice provisions very carefully. That is all I would say.

Mr. Assam: Mr. Chairman, the Electronic Fund Transfer Act of the United States has a fairly similar provision. In fact, the maximum liability imposed on a consumer is US \$50 dollars, if he reports the loss or theft of the card within two business days of discovering the theft or loss. The sum of \$500 is the penalty imposed if the consumer fails to report within two business days.

Sen. Prof. Ramchand: Of discovering.

Mr. Assam: Yes, of discovering, that is what I said.

Sen. Montano: Within two days of discovery.

Mr. Assam: We can say, therefore, that the issuer has been given oral notice immediately or within two days of discovering that the card is lost or stolen. [Interruption] That is what they have in the US legislation, “of discovering”.

Sen. Montano: But you do not have the words “of discovering” in yours; just use the same words.

Mr. Assam: We are putting it in. I am acceding to what the Senator is suggesting, “of discovering the theft or loss”.

Sen. Montano: You are putting in more words. [Crosstalk] Does the United States make a difference between oral or written notice?

Mr. Assam: No.

Sen. Montano: I did not think so. That was the point I was making in my contribution. [Crosstalk]

Mr. Assam: There is no distinction made between oral or written in this case.

Sen. Montano: And there should not be.

2.15 p.m.

Which is why we should not make a distinction in our legislation either.

Mr. Assam: I do not think we should follow, sheepishly, everything in the United States legislation. I think we can take the essence of what they are doing, and I think we have taken the essence. If we say, “the issuer has been given oral notice immediately or within two days of discovery that the card is lost, stolen or

so far any reason, liable to misuse.” So we are putting the word “discovery” to take care of the concern raised by Sen. Ramchand.

Sen. Montano: Okay. Fine, but you should also remove the distinction between oral and written notice.

Mr. Assam: I do not think we should.

Sen. Mark: We could always come back to that, Sen. Montano, if it proves—

Sen. Prof. Ramchand: Mr. Chairman, there is one other concern I have about this, that when you make things about giving notification, it is usually the case that there is an 800 number, 24 hours a day, 7 days a week, and we may not be able to legislate for them. I think, certainly, the bank should be advised that there should be an 800 number, 24 hours a day, seven days a week.

Mr. Assam: They do have that. When you get the package with your card there is an 800 number; whether it is American Express, visa, master card, whatever it is, there is an 800 number.

Sen. Prof. Ramchand: I heard the Minister say earlier on about weekends and so on.

Mr. Assam: There is provision for weekends also with that 800 number.

Mr. Chairman: Could we ask the Minister to read subclause (4), so we will all have it clear.

Mr. Assam: “Subclauses (2) and (3) shall not apply to any use of the card after the issuer has been given oral or written notice...” and we are putting in the addition now—“immediately or within two days of discovering that the card is lost...” and the rest would apply or... stolen, or is for any other reason liable to misuse.” Did you get it, Mr. Chairman?

Mr. Chairman: Yes. Does everybody have that?

Sen. Daly: “Within two days of discovery” is beating me, because “immediately” is in relation to what? “Immediately” is just hanging up there. “Immediately” has to relate to some antecedent event, otherwise how do you know it is immediate. [*Crosstalk*]

Mr. Assam: What were you saying, Sen. Daly. I think we should simply have “within two days of discovery” because “immediately” in the way it has been read out does not relate to anything. You can only know something is immediate if you are relating it to some event.

Mr. Assam: Up to discovery of what? There must be a discovery of something.

Sen. Daly: That the card is lost or stolen.

Mr. Assam: That is what we have in clause 10.

Sen. Prof. Ramchand: I think the word “immediately” is unnecessary there.

Sen. Mark: No, immediately, discovering or within the two-day period of discovering. It goes together. [*Crosstalk*] If you have a problem with it we will come back to it.

Mr. Assam: I do not why we are getting involved in—

Sen. Prof. Spence: Mr. Chairman, could we have the whole thing read out, perhaps that is the problem. I think when it is read out we will understand whether it makes sense or not.

Mr. Chairman: Let me give it a try. Subclause (4), as I see it, is presently suggested to read as follows:

“Subsections (2) and (3) shall not apply to any use of the card after the issuer has been given oral notice immediately, or within two days of discovering that the card is lost, stolen or is for any other reason liable to misuse.”

Sen. Prof. Spence: Mr. Chairman, we really must put things down that make sense. The immediate has to also be governed by a discovery of the lost otherwise “immediate” does not make sense. You have to reword it in such a way that discovery of the lost” covers both the two days and the “immediate” otherwise it does not make sense.

Sen. Daly: More than that, for the period “within two days” the larger would encompass any smaller period. So you do not need “immediately.” I do not want to—I mean it is all right if we right bad laws. There are consequences if you write bad laws. As I understand it, if you say, “within two days” the larger period would cover the smaller period, why do we need “immediately”. If you want to twist up the section, fine. But it does not make sense.

Sen. Prof. Ramchand: If I discover the loss at 10.00 a.m. and telephone them right away, I have done it within two days.

Mr. Assam: Mr. Chairman, we will accept the last amendment in this subclause and it will read:

“Subsections (2) and (3) shall not apply to any use of the card after the issuer has been given oral notice within two days—

[Crosstalk] Could you tarry for a minute? “Subsections (2) and (3) shall not apply to any use of the card after the issuer has been given notice within two days of discovering that the card is lost, stolen or is for any reason liable to misuse.”

Sen. Mark: Let us go with that, okay.

Mr. Chairman: Everybody got that? “Subsections (2) and (3) shall not apply to any use of the card after the issuer has been given notice within two days of discovering that the card is lost, stolen, or is for any other reason, liable for misuse.”

Sen. Daly: Can we take a look at subclause (6) now?

Mr. Assam: What is subclause (6)?

Sen. Daly: Now that we have a time period do we need six at all. I maintain that it is a little unusual to say something takes effect, and then un-takes effect. Now that we have tidied up subclause (4) why do we need six at all? What purpose will it serve.

Sen. Prof. Ramchand: Mr. Chairman, if I understand the amendment to subclause (4), we have removed “oral or written” and just said “notice”, would it be understood that notice means “oral notice?”

Mr. Chairman: As we word it, it would mean any kind of notice.

Sen. Prof. Ramchand: I would have kept the six only to make it clear that oral notice is involved. But if “notice” means “oral or written notice”, that is fine.

Mr. Assam: That is why subclause (6) should be left because “notice” could either be oral or written. If it is oral it means to say you still have the seven days within which to make a written report.

Sen. Daly: Then if you do not, the notice stops taking effect. How could you give notice that takes effect for six days and then stop taking effect after that? So what? In the first six days the transactions are treated one way and in the seventh and subsequent days—

Mr. Assam: If you do not comply, sure.

Sen. Dr. Mc Kenzie: Mr. Chairman, I have a suggestion that subclause (6) should read, having amended subclause (4), that we should say that “notice, under subclause (4), takes effect when received, but where it is given orally it should be confirmed in writing within seven clear days. Just to have something on record, but leaving out it shall be treated as not taking effect.” [*Crosstalk*] No problem. It does not say anything. It is just as a record-keeping measure that you could confirmed that you actually called and followed it up. That does not mean if you did not do it that it will not take effect. So I am suggesting that we delete from “it” to “not” and substitute “should be.”

Mr. Mark: No, “shall be”, you cannot put “should be”.

Sen. Dr. Mc Kenzie: Whatever.

Sen. Montano: I have heard arguments against subclause (6) here. I have not heard any arguments in favour of it as to why it should work and how it will work efficiently and effectively in relation to subclause (4). I would like to hear a reason why it is a good thing. We have made arguments as to why it is going to confuse everybody.

Mr. Assam: I do not think Sen. Montano was listening when I tried to explain that notice could either be in writing or oral. If it is an oral notice then you have to proceed to the next stage for it to take effect. That is, to give a confirmation within seven clear days. That is the reason.

2.25 p.m.

Sen. Prof. Ramchand: I think the Minister suggested that the person who takes your call may not have recorded your call.

Mr. Assam: There is a possibility that anything could happen. There is always a slip between the cup and the lip.

Sen. Prof. Ramchand: So in any case the cardholder who puts in the report in writing within seven days would suffer if his call is not recorded—could suffer.

Mr. Assam: Could suffer, sure. If for some reason that telephone call has not been recorded somewhere to alert the authorities that your card is stolen, misplaced, misused or whatever it is, then you have a second bite at the cherry to confirm it in writing within seven days to protect your own interests.

Sen. Prof. Ramchand: Then I agree with Sen. Dr. Mc Kenzie that a measure designed for the protection of the cardholder should not then turn around and be used to the disadvantage of the cardholder, in the sense that, if he does not do the written notice, his oral notice would be null and void.

Sen. Daly: Precisely. That is the whole point of it.

Sen. Prof. Ramchand: So you could put in the bit about the written, but do not say that he will be penalized if it is not done. Say “should”; he should do it. If I can prove that I put in my notice by telephone and you say you have no record of it, you will just get TSTT to pull the telephone records and show that I made the call.

Mr. Assam: All right, let me see if I can assist. Would it help if we say:

“Notice under subsection (4) takes effect when received, but where it is given orally, it shall be confirmed in writing within seven clear days.”

Sen. Prof. Ramchand: Yes, yes.

Mr. Assam: “but where it is given orally it shall be confirmed in writing within seven clear days.”

Sen. Prof. Ramchand: Yes.

Sen. Prof. Spence: Mr. Chairman, I think if we use the word “shall” we will have a problem because “shall” implies that it must be. I really think Dr. McKenzie’s point is that it should be “should”. If you put “shall” then you are saying that, unless it is done, the oral notice does not apply, even though you have not said it in the—if you say “should”, I think that is encouraging you to do it, but it does not remove your right if you have not done it.

Sen. Prof. Ramchand: Yes, I think “should” is good enough.

Sen. Mark: I understand that in the Interpretation law “should” is a very doubtful expression in terms of language.

Sen. Prof. Spence: Could we have this question answered? If you put “shall”, does it have the same effect as the wording that is now there? Because the wording that is now there is what we are trying to get away from.

Sen. Mark: Well, if they fail to do so and it is “shall”, then they will have it. But “should” is doubtful.

Sen. Prof. Spence: So all we are doing by putting “shall” is to have what we have there now. We have not done anything.

Mr. Assam: You know, I really do not understand the argumentation. You want to protect the banks in the first instance against the consumers. Now we are trying to balance the thing in a middle of the road, according to the language of Sen. Daly, and you are resisting it because this is a middle of the road where the

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consumer has an opportunity to report and now the bank has a position where, if you do not do it in writing in seven days, the bank has some kind of protection. So we are protecting the consumer on the one hand and the bank on the other. I am surprised that you are protesting against this. Is this not the middle of the road suggested by Sen. Daly?

Sen. Prof. Spence: Mr. Chairman, I am not protesting against it. I just want us to understand exactly what we are doing and not to do one thing and think we are doing another. So I am just trying to clarify it.

Mr. Assam: Of course. So it puts an obligation on the consumer on the one hand and it puts an obligation on the banker or the financial institution on the other. And now you have achieved the middle of the road—*[Interruption]*

Sen. Prof. Spence: I understand that. Sen. Rev. Teelucksingh made the point about the seven days. If you are in China, would the letter get here in seven days? So can it be the time at which it is sent and date stamped?

Mr. Assam: But you can fax.

Sen. Prof. Spence: No, well that is not writing. A fax is not writing.

Mr. Assam: No, but a fax is acceptable under law.

Sen. Prof. Spence: Okay. Well, I am just asking. I am not arguing it, “eh”. I am just raising the issue whether seven days is a good time.

Sen. Mark: Prof. Spence, are you suggesting more days?

Sen. Daly: *[Inaudible]*

Sen. Mark: Mr. Chairman, under the Electronic Fund Transfer Act in the United States, it is up to about, I think, 60 business days. After that, you are totally liable under the United States law. So if you are saying that seven days is inadequate, are you proposing that, for instance, it should be 10 days? Are you saying it should be 15 days? What? We have to get something concrete.

Sen. Prof. Spence: Yes. I was suggesting that perhaps it should be a longer period. I was really explaining Sen. Rev. Teelucksingh’s point that seven days might be too short. But I am not arguing it, I am just saying we should consider whether 14 days is not a better period. But I am not pressing it, I am just raising it as a thing for us to discuss.

Sen. Mark: Would you propose that?

Sen. Prof. Spence: Yes, I propose 14 days.

Sen. Mark: Would you like to propose that, 14 days instead of seven days? We are prepared to look at that. Do you want to propose that, Prof. Spence?

Sen. Prof. Spence: Yes, I prefer 14 days.

Mr. Assam: So will Senators opposite be happy with 14 days? So instead of “within seven”, it will be “within fourteen clear days”.

Sen. Daly: Since that was the generic question, if that is the right word, the collective question—I would not be happy myself, it does not matter, until clause 6 is deleted. So just let me make my position clear.

Sen. Mark: No, we cannot delete that.

Mr. Assam: So, Mr. Chairman, we will now go with subclause (6):

“Notice under subsection (4) takes effect when received, but where it is given orally, it shall be confirmed in writing within fourteen clear days.”

We will go with that amendment.

Mr. Chairman: Okay, has everybody got that?

Sen. Rev. Teelucksingh: Can I ask this question? Are you telling me that if it is given orally it shall not be treated as taking effect? I am reading from the original clause.

Mr. Assam: No, we have taken that out.

Sen. Rev. Teelucksingh: It is understood, then, that the oral report means that it will take effect? If that is so, I have no problem with it.

Mr. Assam: Yes, yes, yes; but it still has to be confirmed in writing within 14 days.

Sen. Dr. St. Cyr: The question is, suppose after 14 days it is not confirmed in writing?

Sen. Mark: He is totally liable.

Mr. Assam: The cardholder then exposes himself.

Sen. Dr. St. Cyr: So the notice took effect for 14 days and then ceases to take effect?

Mr. Assam: Yes.

Sen. Mark: Yes, he is liable after that.

Sen. Prof. Ramchand: No, but he can fight it out with them.

Sen. Mark: Yes, in court, if he wants.

Sen. Prof. Ramchand: He can say, "I have given you notice by telephone. I can prove that I did it".

Mr. Assam: Clearly; it can be a personal matter between the bank and the customer.

Sen. Prof. Ramchand: The bank cannot assume that because it did not come in writing they are not liable; once I can prove I sent it in orally.

Mr. Assam: Okay, so Mr. Chairman, we go with that.

Mr. Chairman: We are dealing with the amendment under clause 19(6).

Question put and agreed to.

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

Clause 20 ordered to stand part of the Bill.

Mr. Assam: Mr. Chairman, we need to revisit clause 4, please.

Clause 4 recommitted.

Question again proposed, That clause 4 stand part of the Bill.

Mr. Assam: Mr. Chairman, I beg to move that clause 4 subclause (2) at the bottom of the page be amended by, instead of using the expression, "common law theft", we substitute the word "fraud". So subclause (2) will now read:

"For the purposes of this section, taking a card without consent includes obtaining it by any conduct defined or known as larceny or fraud, or by obtaining property by false pretence, or by extortion."

So we have substituted the expression "common law theft" with one word, "fraud".

Mr. Chairman: Okay, we are going to reopen clause 4 to take that amendment. Everybody in favour?

Assent indicated.

Question put and agreed to.

Clause 4, 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.

COMPUTER MISUSE BILL

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

That a Bill to prohibit any unauthorised access, use or interference with a computer and for other related matters, be now read a second time.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: We have no circulated amendments to this one.

Sen. Daly: Yes, we have a problem with clause 17. That is the one with arrest without warrant where we are proposing its deletion, in answer to your question, Sir.

Mr. Chairman: Okay, that is in Part III. I propose that we deal with it in Parts, Parts I and II, and when we get to Part III we will then break it into clauses.

Sen. Daly: Yes, thank you, Mr. Chairman. It is very courteous of you. Thank you, Sir.

Clauses 1 to 9 ordered to stand part of the Bill.

Clause 10.

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

Mr. Assam: We are just wondering about a slight amendment in clause 10(1), Mr. Chairman.

Sen. Prof. Ramchand: Mr. Chairman, there is a little difficulty there that I just wanted to raise again a certain misgiving—it is not an amendment—
[*Interruption*]

Mr. Chairman: Is it a clause?

Sen. Prof. Ramchand:—over this whole thing about the offences.

Sen. Mark: Let me deal with that after, “nah”?

Sen. Prof. Ramchand: If I get to raise it after, that is fine. I am not happy that if somebody has Microsoft Office 2001 and he gives me a copy that he would be fined the same as somebody who uses his access to a computer to discover a secret formula or confidential information. I feel that the person who gives me Microsoft Office 2001 is really infringing the rules of copyright and I do not feel that it is properly under computer misuse. So that is a misgiving I have about the Bill.

Mr. Chairman: Do you have a suggestion?

Sen. Prof. Ramchand: The suggestion would be to find a way to weed out any part of the legislation that makes the person who gives me Microsoft Office 2001 liable, and that is extensive. That would be very extensive. I do not know how to do it. It would take a lot of time. But that is a principle—it is true the Minister said that he has not checked with the copyright laws about the question of overlap, and that later on they could come back and clean it up, but I am just getting it recorded that I am unhappy with it as it stands.

2.40 p.m.

Mr. Chairman: I think I heard the Minister say that he will, in fact, have that matter looked into.

Sen. Prof. Ramchand: He would have it looked into and he will not wait for an occasion to look into the possible overlapping.

Mr. Assam: Mr. Chairman, I want to suggest a small amendment in clause 10(1) line 2. After the word “computer” the word is “or” and I want to change the word “or” to “and” so it will read:

“A person who receives or is given access to any program or data held in a computer and who is not authorised...”

And delete the comma. So take out the comma and substitute the word “and” for “or”.

Mr. Chairman: Okay. Did everybody get that? So we will treat that as a typographical error as opposed to an amendment.

Sen. Marshall: Mr. Chairman, just on that point, in clause 10(3), the question about unauthorised use of data. What about the case of a secret formula where

somebody gives away the formula for, say, Angostura bitters. There is a fine here of \$15,000.00 but I am saying the value of that data may be \$1 billion or \$10 million.

Mr. Assam: I suspect that will come under intellectual property rights. The laws governing intellectual property rights would cover the secret formula for Angostura bitters.

Sen. Marshall: So it could be also caught there in addition to this.

Mr. Assam: Yes.

Mr. Chairman: So, we will treat the amendment to clause 10(1) as a typographical error, altering the second line by taking off the comma and the word “or” and replacing it with “and”.

Question put and agreed to.

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

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

Clause 14.

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

Sen. Marshall: Mr. Chairman, I would like to propose an oral amendment to clause 14(4): “For the purposes of this section, a program or data held in a computer is deemed to be the property of the owner of the computer “where there exists a licensed serial number copy of the programme which is registered with the author or authorised dealer”.

Mr. Chairman, what I am asking is, can our laws deem the owner of a program to be someone who may be using an unauthorised copy? That is all I am asking. We have copyright laws.

Mr. Chairman: Let us just get the wording.

Sen. Mark: Let us just get the wording in terms of what you just said.

Sen. Marshall: Sorry. “...where there exists a licensed serial number copy of the programme which is duly registered with the author of the programme or any other authorised dealer.”

Sen. Mark: Could we leave that clause and we will come back and look at it.

Mr. Chairman: We will defer consideration on clause 14(4) and let the technocrats have a look at it.

Clause 14 deferred.

Clause 15 to 16 ordered to stand part of the Bill.

Clause 17.

Question proposed, That clause 17 stand part of the Bill.

Sen. Prof. Spence: Mr. Chairman, could I make a comment on this? There are any number of criminal acts which one could use the same argument the hon. Minister has used that a person may escape from the country and so on without being apprehended, but not many of them allow the police to have power of arrest without warrants. So, I do not think it is a reasonable argument to say that the person could escape from the country. It does not strike me as a reasonable argument. I think that we should not add another law in which the police are given that power. My amendment is that we delete clause 17.

Mr. Chairman: We have a suggestion from Sen. Prof. Spence that we delete clause 17. Is there any discussion?

Sen. Marshall: Mr. Chairman, I would like to support that because the chances are that the person would be outside the country in any case. [*Laughter*] I mean, the real issue here is that communication networks are breached and that is where it will take place. You do have some attempted coverage later on where the territorial reach of this Bill is implicitly implied that the laws relate to it even if the person is outside of the country. So to give a police officer this power because the person may escape, I am saying to you the person has already escaped.

Mr. Assam: Mr. Chairman, we will delete clause 17 and renumber clause 18 as new clause 17.

Mr. Chairman: We have decided to delete clause 17.

Question put and agreed to.

Clause 17 deleted.

2.50 p.m.

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

Clause 14 revisited.

Mr. Assam: Mr. Chairman, I have been advised by the technocrat that the amendment suggested by Sen. Marshall where he wishes to insert the language that we have heard him recite will not work, because it does not take into account substantive law. It merely provides evidence of proof, but nothing beyond. It only provides proof of ownership, but in a very limited way.

Sen. Daly: Mr. Vice-President, that does not make sense, because this is a deeming provision. If one is deeming something, one is free to deem it one way and make an exception to the way in which one is deeming it. The sense of what Sen. Marshall is trying to do is to say that most of us use software, or many of us have software on our computers which we are using because we have a licence.

You cannot say that somebody who is using somebody else's programme or data is the owner. The owner of the programme is the person who has the software properly licensed. It is properly registered and one is just using it on licence. You cannot defeat Sen. Marshall's proposition by saying it is an evidence question, when this is a deeming section.

Mr. Assam: What the technocrat is saying is that this merely gives proof of ownership, but not right of ownership, which is a fundamental distinction. Someone could own something that is illegal but he does not have the right to it. So, one can have proof of ownership of something illegal, but not the right to it because one got it illegally.

Sen. Marshall: This might happen. Somebody might be fined for copying something that is stolen because that unauthorized copy may have a virus that now destroys the person's data. Under this section, the court may rule that compensation should be paid to somebody who has stolen a copy of a programme and unknowingly to him, that programme being unauthorized, may contain some sort of virus that destroys the plaintiff's data. I just found that was inconsistent with our excellent copyright and intellectual property laws.

Sen. Mark: Sen. Marshall, we have been advised that your addition is too limited. It would not cover, for instance, data or a programme that is not licensed. You are covering licensed programmes. The definition that we have in the clause here takes into account both licensed and unlicensed, but what you are adding there is going to limit this clause to just licensed programmes. That is why we are saying it is very difficult to incorporate that at this time.

Sen. Daly: Mr. President, where is the protection for the person who has the licence? Where is that? What are we limiting? Can I find out something? It is being said we are limiting something. What are we limiting?

Mr. Assam: It would be limiting only programmes that have a licence and a serial number.

Sen. Mark: It will not be covering data or a programme that is not licensed.

Sen. Prof. Ramchand: Could the phrase say, "could be deemed to be the property of the duly registered licensee? Suppose we said that?"

Sen. Mark: We have not gone to the extent of registering computers in Trinidad and Tobago.

Sen. Marshall: I understand the point.

Mr. Assam: We will leave it as is.

Clause 14 ordered to stand part of the Bill.

Sen. Prof. Spence: Before we go on, this is a typing error, but could we spell programme properly? Has our law now changed and we use the American spelling? Do our laws now use the American language?

Mr. Assam: They are both acceptable. If you look at the dictionary, programme is spelt both ways and both are acceptable now as English usage.

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.

SHIPPING (MARINE POLLUTION) (NO. 2) BILL

Order for second reading read.

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Vice-President, I beg to move,

That the Bill to provide for powers and jurisdiction in relation to the pollution of the seas from ships, intervention on the high seas in cases of oil pollution, dumping of wastes at sea, prevention of pollution from ships, preparedness and response for oil pollution emergencies, liability and compensation for pollution damage and matters incidental thereto, be now read a second time.

You will recall that during the last session of this Parliament, we introduced this Bill and from that, a select committee of Parliament was set up to consider it and make recommendations in terms of making it, the international conventions and international law appropriate to Trinidad and Tobago.

We did that, and notwithstanding that, the purpose of this Bill is to prevent the deliberate, negligent or accidental release of oil and other harmful substances from ships for the protection and preservation of the marine environment, and for the conservation of the natural resources within the environment, and to that end, to regulate maritime activities. This is being achieved by giving effect to several important conventions of the International Maritime Organization, which is a specialized agency of the United Nations responsible for maritime safety and pollution prevention.

Mr. Vice-President, Trinidad and Tobago operates a register of vessels and is required to administer and enforce shipping safety matters. This is done through the creation of the Maritime Services Division under Act 24 of 1987. Under the provision of the Shipping Act, Trinidad and Tobago is required to ensure that all vessels registered in Trinidad and Tobago are safe to operate. That is, their equipment and machinery, and the integrity of the vessel itself, must be intact. In addition, there is provision to ensure that all Trinidad and Tobago seafarers are trained to operate vessels of different sizes and technological requirements.

While there is a regime in place to provide for the safety of vessel equipment and machinery, and for operational standards, there is no legislation or formal operational framework in place to provide for accidental or deliberate pollution to the marine environment from vessels.

Mr. Vice-President, what is available at this time is not adequate. The Oil Pollution of Territorial Waters Act, 1951 makes provision against the discharge or escape of oil into the territorial waters of Trinidad and Tobago. The owner or master of vessels from which oil is discharged is liable on summary conviction to a fine of \$10,000. This does not cover compensation from major oil pollution damage which may run into millions of dollars, depending on the impact of this Bill. Moreover, it does not take into consideration any incident outside the territorial waters of Trinidad and Tobago, in which it will still be under the jurisdiction of Trinidad and Tobago, for example, the exclusive economic zone.

Prior to 1997, oil exporting companies, such as Petrotrin, were party to private insurance schemes so that in the event of major oil pollution, they could cover their liabilities. These schemes collapsed in 1997, and since then, the Ministry of Energy and Energy Industries has been urging Government to give effect to the international regime for the protection, clean up and compensation in the event of an oil spill.

Shipping Bill
[HON. S. BAKSH]

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The preliminary findings of a recent oil spill incident in the Port of Spain harbour points to the urgency of establishing a comprehensive regime for oil spill clean up liability and compensation. Issues that arose include, ensuring full remediation of the environment, compensation and compensating all parties directly and indirectly affected by the pollution incident, and where any indirect compensation referred to any loss of earnings or income arising out of oil pollution incidents. With regard to penalties for causing pollution, under the proposed legislation, this matter would have been taken into consideration.

Mr. Vice-President, the International Convention for the Prevention of Pollution from Ships MARPOL 73:78 deals with accidental or deliberate discharge of oil from vessels and prescribes the maximum penalty upon summary conviction. Secondly, the International Convention on the Oil Pollution Preparedness Response and Co-operation provides a framework for regional and, when necessary, international co-operation for oil spill response. Systems are mobilized from regional and extra regional sources to manage the pollution incident and effect full clean up of oil spills.

Thirdly, the International Convention on Civil Liability for Oil Pollution Damage, under which regime, the owner or master of the vessel which contributes to the spill, will limit his liability for pollution damage. This enables a bond to be put in place to the extent of the liability. This means that Government would have a comprehensive mechanism in place to hold the polluter liable to secure the remedy to the marine environment and to ensure that the polluted entity, itself, provides compensation for damage.

3.05 p.m.

It must be emphasized that MARPOL, referred to above, also includes a framework for the prevention of pollution from other substances which have very high threatening impact on the marine environment, especially in the fragile Caribbean Sea. These include sewage, garbage, harmful goods in package form and the noxious and liquid substances carried in bulk. The impact on a country's financial and social resources of a major oil spill incident cannot be over emphasized.

In November, 1999, the Government of France suffered a major oil spill to that country. Conservative estimates indicated that the cost of the clean up and remedial works, to date, exceed US \$17 million. In addition, there is the accumulated effect of loss of tourism earnings. Trinidad and Tobago will be unable to attract that sort of financial resources to clean up and to compensate people if they may suffer from such an event, thus the establishment of a fund to ensure that we are in a position to do so.

Again, it must be stressed that the Ministry of Energy and Energy Industries has pointed that out to the country in terms of our inability to access those types of financial resources which would enable us to compensate for any major oil spill damage in this country.

This Bill has been circulated to the major stakeholders and even after we established our committee here, their comments were taken into consideration in terms of the enforcement and scope of the law. The role of the environmental agency has been particularly emphasized in the context of enforcement of provisions of the legislation dealing with dumping of substances at sea.

Mr. Vice-President, while the Minister responsible for shipping maintains the responsibility for enforcement through the activities of the Maritime Services Division, there is a provision made for the enforcement activities to be undertaken by the Ministry of Energy and Energy Industries in terms of the national oil spill contingency plan and the Trinidad and Tobago Coast Guard, among others.

The Shipping (Marine Pollution) (No. 2) Bill provides a comprehensive regime for the prevention, combatting and compensation for damage from pollution from ships that would endanger and preserve the marine environment for the benefit of our nation.

As I indicated earlier, we went through this particular Bill, all 228 clauses, and made a number of recommendations. All were accepted generally. We have found in our review some minor typographical errors with which we will deal at the committee stage.

Mr. Vice-President, I beg to move.

Question proposed.

Sen. Danny Montano: Mr. Vice-President, I think my contribution will be directly opposite the size of this Bill.

We went through it before. I think that most of the changes have, in fact, been made. I know that the Members of the committee of which I was a Member—and I met only in the first few sessions—worked very hard on it. I have spoken to Sen. Prof. Kenny, who has assured me that everything was taken on board and that the legislation will now likely work successfully.

Having said that, I would just like to thank all the Members of the committee, the Minister and his team, and to say that we support it.

Thank you very much.

Sen. Prof. Julian Kenny: Mr. Vice-President, I will also be quite brief, but I do not think that I can really allow, or at least, deny myself the opportunity to make some comment on procedures, to speak very briefly on broad policy and then to address the actual Bill.

Mr. Vice-President, I received this Bill at 5.00 p.m. on Friday. I am led to believe that some Members of the Government side did not receive it until today. I can assure you that the technical people whom we worked with, one of the principal performers in this exercise, did not receive it until today. Fortunately, I had brought both the new Bill as well as the old Bill, and we were able to have a working session with the technical officers to make sure that this Bill actually reflects everything which the Senate committee agreed to.

Mr. Vice-President, it is very, very wearying to, I suppose everyone, who has to deal with legislation of this kind, to have it done in quite this way and I sincerely hope that, when we are dealing with other types of legislation of this size, we are given the opportunity to look at it a lot more closely.

Secondly, the point I would like to make is a general point about environmental policy. We do have a National Environmental Policy which has been laid in Parliament and that policy should guide us. This legislation would form part of the response to this National Environmental Policy. It is not only the National Environmental Policy, but it is also an international obligation.

I think that the Government really ought to reflect on the National Environmental Policy to see how what we are doing in Parliament fits in with this policy. The serious environmental legislation passed in this Parliament—and I am not referring to the Environmental Management Act, which was re-enacted—in the last five years, is the Minerals (No. 2) Bill. I am not quite sure whether this has been assented to or proclaimed.

The other serious bit of environmental legislation is this, which is in response to our obligation under an international treaty, the MARPOL treaty on the Law of the Sea. The point of mentioning this business of our responsibilities under international treaties is to remind the Government that we also have obligations under other international treaties which we have signed, some dating back 16 years. The CITES Convention. We have not had any draft legislation. Similarly, we have signed in 1992 United Nations Convention on the Conservation of Biological Diversity, which requires us to set aside protected areas and things like that. That requires legislation, which has been on our Order Paper for three years now for parks and protected areas, under these conditions that we have on the international Convention on the Conservation of Biological Diversity.

I am suggesting to the Government that, perhaps, it really ought to reflect on its responsibilities under these international treaties and it ought to reflect on our national environmental policy to see that when we develop a legislative agenda that we do address some of these very, very important issues that arise from our commitments to ourselves and our commitments to the international treaties.

The final comment I wish to make on the Bill is that, at least, to my satisfaction, for the nth time, I have been able to go through the final version and I can assure my colleagues on all sides of the Senate that we have done our homework during the lunch hour, and the legislation is now consistent with our international treaties and also consistent with our domestic law. That was one of the main considerations. We were not just simply signing international model legislation. We were looking at what everyone else is preparing and adopting. We have spent a lot of time and we have modified everything to recognize our domestic law and our domestic institutions.

Therefore, I very, very warmly support the Bill and I congratulate the Government on a major piece of environmental legislation.

Finally, I think we ought to pay tribute to the technical people who quietly go about their business of assisting Members of this Parliament and Members of sub-committees in making their skills available to us lay people so that we can give you quality legislation.

In particular, I would like to mention Mr. Brent Williams from the Ministry of Works and Transport and Miss Elizabeth Camps from the Attorney General's Office, or the Chief Parliamentary Counsel's Department, who, at the drop of a hat today, interrupted everything so that we could have a lunch time session, so that we could confirm that this is extremely good legislation which forms a very, very important part of our environmental legislation in this country.

Thank you, Mr. Vice-President.

Sen. Rev. Daniel Teelucksingh: Mr. Vice-President, just two questions which I consider to be very important. The Bill speaks about:

“...the Mediterranean Sea area, the Baltic Sea area, the Black Sea area, the Red Sea area, the ‘Gulfs area’, the North Sea area, the Antarctic area...”

And the English Channel, of course. I ask a question of the hon. Minister. What monitoring agencies do we have? How often have we received reports within the last six months about the dumping of waste in the Chaguaramas area by the "yachties" who come in our own little gulf?

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[SEN. TEELUCKSINGH]

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When I read this, I have a problem, in that the whole world wants us to be concerned about their gulf and their seas. We have always signed and appended our names and spent precious legislative time on material like this, laws like these, making sure that we fall in line with all these conventions referred to here. I would like to know how often and when last we had a very serious report from the Environmental Management Authority and all the others, with officers actually getting into the areas occupied by the "yachties" and inspecting properly, concerning the dumping of waste in our own area.

The next question, though, I want to ask the hon. Minister, has to do with Part V, Subparts 3 and 4. Listen to the headings: "PREVENTION OF POLLUTION BY NOXIOUS LIQUID SUBSTANCES IN BULK" and "PREVENTION OF POLLUTION BY HARMFUL SUBSTANCES CARRIED BY SEA IN PACKAGED FORM". My second question is about that, because, too often, Mr. Vice-President, our Caribbean partners in Caricom—and I am sure all the other non-Caricom territories—have been expressing serious concern about the transportation of—put it in the beautiful Bill—noxious liquid substances through the Caribbean Sea and the Atlantic waters that wash our shores. We have always been complaining about the transportation of nuclear waste and hazardous substances.

3.20 p.m.

My second question to the hon. Minister is—Japan, France and Britain, along with Trinidad and Tobago and Caricom, have all been signatories to these conventions, these larger nations have ignored us and continued to transport, through Caribbean waters, hazardous substances—what is the force and power of the Caricom voice in the United Nations concerning this matter?

I am asking the hon. Minister through you, Mr. Vice-President: Have we, as signatories to these various conventions, been receiving any kind of support from the larger nations? They are not going to allow these hazardous substances to pass through some of these gulfs and areas I have mentioned. One could never find that in the North Sea, forget it. Mediterranean countries will not allow that, the United States of America would make a fuss. Those dangerous substances, especially the transportation of nuclear waste, could be transported through our waters; we sign to these conventions, but you would never find these countries in the G7 or G12 groups. They will never allow these dangers. They will never chart courses in the oceans for the transportation of these nuclear wastes, but they must pass through the Caribbean.

For years we have been speaking about it. This is why I feel so disappointed and discouraged about being a part of conventions like these. The larger nations take advantage of us! I want to know what is the effect of the voice of Caricom in the United Nations on a matter like this, in addition to rubberstamping? I am sure

most of these clauses came from somewhere. We have to fall in line. We are going to rubberstamp it. I think it means more to the Caribbean peoples; especially since our tourism and marine life are threatened by the transportation of the nuclear wastes, and hazardous substances. If there is a disaster in the Caribbean Sea, I think it is definitely going to almost destroy us. I want to ask this question: Do we have any voice or power besides saying yes, we are signing our names to this?

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

Sen. Martin Daly: Mr. Vice-President, this is another Bill which many of us will take pleasure in supporting. I wish to make a few remarks again, because I like to stimulate the debate. It appears that sometimes one stimulates something else. I guess that is an occupational hazard of the season.

I support what Sen. Rev. Teelucksingh said to this extent: this Bill is another example of the irony of us sitting here in our jackets and ties in our relatively splendiferous surroundings passing Bills that, really, are being passed at the instigation of persons outside our country. What is significant about this occasion is that this Bill was completely overhauled by the work of a committee. I do not think anyone would be upset if I place on the record that a lot of the overhauling work in that committee was done by an Independent Senator, namely Sen. Prof. J. Kenny. [*Desk thumping*] Apart from the fact that I am always happy to acknowledge the scientific excellence of my colleague, I also have a very selfish, but at the same time, collective reason for making sure this goes down on the record. Every time we on the Independent Benches attempt to put sense into legislation, every time we attempt to take a measured approach to something, our attempts to do this are sometimes misunderstood. Until today, of course, it was never greeted with abuse, but that is another story.

Here we have a Bill, a thick piece of legislation, which was overhauled by a committee of which one of our Members was the key architect. We have had important legislation before, which we have had to rectify in committee. I have spoken about this on a previous occasion, and I hope those who have ears to hear will hear. We have other important Bills coming. These are very significant Bills for the future of this country. I think it will be equally important, regardless of the season, to subject those Bills to the same treatment which this Bill has had.

I venture to suggest to the Government that if they do simple arithmetic, they will see that the time we spend in the House debating a technical measure, once it goes to committee, is relatively short and certainly a lot less tedious than when we

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insist on ramming it through the Senate. I think this Bill, again, is an example of how legislative work should be done. It is a very good contrasting piece as to how legislative work ought not to be done.

Mr. Vice-President, I have no hesitation in supporting this Bill, subject to the irony mentioned by Sen. Rev. Teelucksingh. I have no hesitation in supporting it. It is very easy to do so, because it is a Bill that has been properly researched, properly overhauled in a committee, comprised of persons in whom we have confidence. I hope, in future, we will follow this model of doing things, rather than the more contentious model.

Thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Dr. Eastlyn Mc Kenzie: Mr. Vice-President, I would like to thank Sen. Prof. Kenny for his education throughout. We missed him at lunchtime, and when he brought back his copy he had a number of red ticks. I said to him: “What assignment were you correcting?” He was checking to see that the 129 amendments made to the original Bill were incorporated in this Bill. [*Desk thumping*] Very quickly I checked to see how many there were, and there were 129 amendments. I want to congratulate the entire team that worked on it.

Mr. Vice-President, I also want to congratulate the hon. Minister of Works and Transport for being so accommodating. [*Desk thumping*] I have seen, in my time here, that some of the Ministers who pilot Bills in this Senate are so accommodating: they listen, weigh suggestions and explain to you, if they think that you are on the wrong course, they give clarifications, they erase your doubts, but they are accommodating. They may even correct you, but, sometimes, I must say that some on them disappoint me. [*Laughter*]

I want to tell the hon. Minister of Works and Transport how much I admire that type of spirit of listening and so on. [*Desk thumping*] I also want to congratulate him for his humility. I do not know his pedigree, and I do not want to know his pedigree either.

Sen. Daly: Or his accent.

Sen. Dr. E. Mc Kenzie: I want to know that he has a heart to teach and to learn, and for us to sit together and do what is best for this country. I want to say to him how much I admire that in him today.

I want to tell Sen. Prof. Kenny that I am one of those who learnt a lot from him, because I would question him whenever he brings anything. One example is when Sen. Rev. Teelucksingh asked about the different places, I turned and asked

him: What is the answer to that? He said: "Those are international waters, and at times we do not have any control over those, except we are going to declare ourselves a different or exclusive zone". I also want to thank him for not telling me his pedigree either, but for giving me the answer to the questions that I asked, and for making me not feel so dumb and ignorant of what is happening.

3.30 p.m.

Mr. Vice-President, I would like to place on record the work of a group in Tobago really monitoring the prevalence of pollution in our island, in the sea especially. I am talking about Environment Tobago. I know also that Sen. Prof. Kenny and Sen. Prof. Spence have links, and they do get the brochures that this organization puts out. They have been doing a lot of work on the bays and the watercourses in Tobago with regard to pollution. Within the last two weeks they have reported in the news about the high level of pollution in these bays around Tobago. I think that the public information is important, not only because it tells us to be conscious and aware, but also to beware because we know now that because of the high level of pollution in some of the bays, we must be careful not to bathe in them.

Apart from that, we also know that probably near-shore fishes, like the Jacks and so forth, we have to be very careful about harvesting and eating them, because of the high level of pollution in the waters. I am happy that this Bill will take care of those concerns that we have about the yachties that we have in Tobago polluting our bays and our watercourses.

I would ask the hon. Minister to set up a link with the Environment Tobago group. This is a non-governmental organization; it is not a branch of the Tobago House of Assembly. I would suggest that you set up a link with them whereby you can get reports from them so that monitoring and implementing this Bill would be made easier for you, and that you would not only look at it in the context of Trinidad, but also in the context of Trinidad and Tobago.

Thank you, Mr. Vice-President.

The Minister of Works and Transport (Sen. The Hon. Sadiq Baksh): Mr. Vice-President, taking into consideration all that was said, I will still deal specifically with Sen. Rev. Teelucksingh in terms of his point made about smaller vessels.

Traditionally, the normal waste generated by vessels while at sea has been discharged at sea. This is still a common practice today and it is a legally allowable international practice under approved criteria.

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The generation of garbage has been singled out as an extremely significant threat to the marine environment in the Caribbean. This brings me to the point that, in fact, every single Caricom country and the Association of Caribbean States use every single opportunity to further the cause of the establishment of the Caribbean Sea to be deemed a special economic zone because of its contribution to the economies of the countries within the region. Trinidad and Tobago is on record for over two decades as presenting cases, not only to the United Nations, but to every other agency, to disallow the trans-shipment of nuclear waste within our waters. We have not been successful, but Trinidad and Tobago for over two decades, together with other Caricom countries, and now the ACS, continues to make representation worldwide.

You know better than I do that many people listen, but they do not always hear that cry on the international arena. Notwithstanding that, we will not give up in terms of making that call on every occasion possible.

Sen. Rev. Teelucksingh: Can I ask one question through you, Mr. Vice-President? Thank you Senator for giving way. It is a hypothetical question, but very important. Suppose we decide not to sign the Convention—have we ever thought about that—what are the consequences?

Sen. The Hon. S. Baksh: This particular Convention is not related to that particular issue. In fact, this is to assist further, notwithstanding that, in terms of this particular Convention that we have signed to; it is not dealing specifically with the transport of nuclear waste.

In terms of these harmful substances—those are substances which are identified by the International Maritime Dangerous Goods Code. Under this code they would identify a number of harmful pollutants, especially marine pollutants, and they would, in fact, prescribe the method adopted in packaging these materials; that they should be marked with correct technical names and shall be durably marked or labelled to indicate that the substance is a marine pollutant.

These are some of the precautions they are taking in terms of the establishment of some sort of methodology to ensure, not monitoring only in the case of a spill, but in terms of the prevention. It is a case of establishing under the International Maritime Organization, sensitizing and educating countries within the region and the agencies responsible for monitoring and certifying within a port and within a state, the type of mechanisms to reduce, and in fact, to provide a mechanism by which to deter people from these deliberate—in fact, not even to

avoid, but to ensure that we take some measure of precaution to avoid even accidental discharge of harmful matters into the environment. Basically, this is the rationale for it.

In terms of smaller anchorages, marinas and pleasure craft, that is something that each state, and we within Trinidad and Tobago, in fact, developed in 1997 in consultation with the wider Caribbean initiative, for the development of a monitoring organization within the small ports to discourage the discharge of waste into our territorial waters, not only within Trinidad and Tobago but within the entire Caribbean region.

We will be more than happy to incorporate the NGO in Tobago—which continues, as Sen. Dr. Mc Kenzie said, to provide service on a voluntary basis—to cooperate with all non-governmental organizations, but specifically, to cooperate with the Ministry of Energy and Energy Industries in this exercise, in terms of contingency planning and mopping-up operations in the case of accidental spills.

Mr. Vice-President, I too would like to join with all the members of the select committee to compliment all the Members both on the Opposition and Independent Benches, and to identify that Sen. Prof. Kenny did play an important part in overhauling this important piece of legislation, and making it more acceptable for Trinidad and Tobago. I too would like to join in complimenting all the support staff and the staff here in Parliament for bringing the successful passage of this Bill in this Senate.

Thank you, Mr. Vice-President, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Mr. Vice-President: Before we actually sit in committee, there is just one little announcement I would like to make. The Clerk has been invited to prepare a suitable card to send to the President of the Senate wishing him well, and it should be in circulation. Just in the event that someone might be running off, I want to invite you to subscribe to the card before you leave this afternoon. We will now go into committee.

Senate in committee.

Mr. Chairman: We have a Bill before us with 228 clauses. I would suggest, with your concurrence, that we do not do it clause by clause. We have nine parts and 17 schedules; I suggest we do it part by part and then we could take the schedules *en bloc*.

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

Clause 3.

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

Sen. Baksh: Mr. Chairman, in clause 3 on page 3 in the definition of “tonnage regulations” there is a typographical error. The word “it” should be added after the word “to” in the first line.

Mr. Chairman: Did you get that? We have a typographical error in clause 3. In the definition of “tonnage regulations” the word “it” is to be added between the words “to” and “in”. So it will now read:

“‘tonnage regulations’ has the meaning assigned to it in the Shipping Act.”

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Clauses 5 to 55 ordered to stand part of the Bill.

Clause 56.

Question proposed, That clause 56 stand part of the Bill.

Sen. Baksh: Mr. Chairman, on page 32 in subclause (3) the word “it” in the second line is to be deleted.

Mr. Chairman: My copy has it taken off already.

Sen. Baksh: Okay.

Question put and agreed to.

Clause 56 ordered to stand part of the Bill.

Clauses 57 to 78 ordered to stand part of the Bill.

Clause 79.

Question proposed, That clause 79 stand part of the Bill.

Sen. Baksh: Mr. Chairman, in clause 79(a) on page 41 there is a plus sign in line four. It has to be removed.

Mr. Chairman: There is a plus sign in line four that has to be removed. It is a typographical error.

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Question put and agreed to.

Clause 79 ordered to stand part of the Bill.

Clauses 80 to 113 ordered to stand part of the Bill.

3.45 p.m.

Clause 114.

Question proposed, That clause 114 stand part of the Bill.

Mr. Chairman: Page 64, 114(2). The “it” in the second line has already been taken off.

Sen. Mark: Sir, Clause 165(1) on page 87.

Mr. Chairman: The second word “Reception Facilities” should be lower case for “facilities.” Okay, that is the end of it for that part.

Question put and agreed to.

Clauses 39 to 171, as amended, ordered to stand part of the Bill.

Clause 177.

Question proposed, That clause 177 stand part of the Bill.

Sen. Mark: Mr. Chairman, we have a small amendment to clause 177(5). The word “or arrangements” on page 95 should be deleted.

Mr. Chairman: We will treat the last two words “or arrangements” of clause 177(5) as a typographical error and it is to be deleted. Two words that got in there that is not supposed to be there.

Question put and agreed to.

Clause 177, as amended ordered to stand part of the Bill.

Clauses 178 to 228 ordered to stand part of the Bill.

Schedules 1 to 17 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

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

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ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. Vice-President, before moving to have this honourable Senate adjourned, may I take this opportunity to inform my senatorial colleagues of the order of business for Thursday, October 19, 2000.

We are going to be addressing the following Bills: The Miscellaneous Laws Bill, 2000; the Offences Against the Person (No. 2) Bill, 2000; the Planning and Development of Land Bill; the Basic Conditions of Work and Minimum Wages Bill, 2000; and the Telecommunications Bill, 2000.

Mr. Vice-President, I beg to move that this Senate do now adjourn to Thursday, October 19, 2000 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly

Adjourned at 3.54 p.m.