

*Leave of Absence**Tuesday, October 31, 2000***SENATE***Tuesday, October 31, 2000*

The Senate met at 1.31 p.m.

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

Mr. President: Hon. Members, leave of absence from sittings of the Senate has been approved for the following Senators: to Sen. Prof. Kenneth Ramchand from today's sitting; to Sen. Diana Mahabir-Wyatt from October 27 to November 4, and to Sen. The Hon. Carlos John from October 31 to November 8.

SENATORS' APPOINTMENT

Mr. President: I have received the following correspondence from His Excellency, the President of the Republic.

“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 31st 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 30th 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 Carlos John is incapable of performing his functions as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ARTHUR N.R. ROBINSON, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VINCENT CABRERA, to be temporarily a member of the Senate, with effect from 31st October, 2000 and continuing during the absence from Trinidad and Tobago of the said Senator Carlos 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 30th day
of October, 2000."

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

Mr. Vincent Cabrera, Mrs. Laila Sultan-Khan Valere.

FINANCE BILL

Bill to provide for the imposition or variation of certain taxes, for the incorporation of the amendments made by the Provisional Collection of Taxes Order, 2000, to introduce other provisions of a fiscal nature and for related matters, brought from the House of Representatives [*The Minister of Planning and Development*]; read the first time.

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

Question put and agreed to.

FREEDOM OF INFORMATION (AMDT.) BILL

Bill to amend the Freedom of Information Act, 1999, 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 a later stage of the proceedings. [*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 Export Import Bank of Trinidad and Tobago (formerly Trinidad and Tobago Export Credit Insurance Company Limited) for the year ended December 31, 1997. [*The Minister of Public Administration (Sen. The Hon. Wade Mark)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Export Import Bank of Trinidad and Tobago (EXIMBANK) Limited for the year ended December 31, 1998. [*Sen. The Hon. W. Mark*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Venture Capital Incentive Programme for the year ended December 31, 1997. [*Sen. The Hon. W. Mark*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Venture Capital Incentive Programme for the nine-month period ended September 30, 1998. [*Sen. The Hon. W. Mark*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the accounts and financial statements of the Venture Capital Incentive Programme for the six-month period ended December 31, 1996. [*Sen. The Hon. W. Mark*]
6. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Maintenance Training and Security Company Limited for the year ended December 31, 1998. [*Sen. The Hon. W. Mark*]
7. The Noise Pollution Control Rules, 2000. [*Sen. The Hon. W. Mark*]
8. The Certificate of Environmental Clearance Rules, 2000. [*Sen. The Hon. W. Mark*]

9. The Environmentally Sensitive Species Rules, 2000. [*Sen. The Hon. W. Mark*]
10. The Environmentally Sensitive Areas Rules, 2000. [*Sen. The Hon. W. Mark*]
11. The Removal of Timber (Permits) (Amendment) Rules, 2000. [*Sen. The Hon. W. Mark*]
12. The Felling of Trees (Permits) (Amendment) Rules, 2000. [*Sen. The Hon. W. Mark*]

STANDING ORDERS COMMITTEE REPORT

Presentation

Sen. Selwyn John: Mr. President, I would like to present the following report:

Report of the Standing Orders Committee of the Senate which considered the proposed amendments to the Standing Orders to give effect to section 66A of the Constitution.

ORAL ANSWER TO QUESTION

The following question stood on the Order Paper:

Environmental Management Act (Information Requested)

1. A. Could the hon. Minister list the names and qualifications of the nine members of the Board of the Environmental Management Authority appointed under section (6) (2) (b) of the Environmental Management Act and the categories of that section under which they were appointed?
- B. Could the hon. Minister also state when the Environmental Commission required under the Environmental Management Act will be appointed? [*Sen. Prof. J. Kenny*]

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I did in fact indicate that it would be difficult for us to deal with that question today. [*Interruption*] I am sorry, Sir. I am sorry, Mr. President, if it was not communicated to Sen. Prof. Kenny, but at this time we beg to move that the answer to question No. 1 be deferred for one week.

Question put.

Oral Answer to Question

Tuesday, October 31, 2000

Sen. Daly: Division. [*Interruption*]

Mr. President: A division is called. [*Interruption*] The Clerk advises that if the Minister does not have the answer, we should not take a division because the division can do nothing.

Question, by leave, deferred.

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, we are going to proceed with “Bills Second Reading” focussing on the Finance Bill, and thereafter we want to deal with “Motions” and later return to “Bills Second Reading”, Sir.

Question put and agreed to.

FINANCE BILL

The Minister of Finance, Planning and Development (Sen. The Hon. Brian Kuei Tung): Mr. President, I beg to move,

That a Bill to provide for the imposition or variation of certain taxes, for the incorporation of the amendments made by the Provisional Collection of Taxes Order, 2000, to introduce other provisions of a fiscal nature and for related matters, be now read a second time.

Mr. President, as you are aware, the Bill which is now before this honourable House was passed in the other place with amendments and contains measures outlined in the budget presentation which, as you will recall, was presented to the other place on August 28, 2000. The Bill also does some tidying up of some of our taxation laws. Part I of the Bill describes the Short Title of the Act. Part II of the Bill amends the Old Age Pensions Act by increasing old age pension from its current level of \$620 to \$720. You will also remember, Mr. President, that this measure took effect from October 1, 2000.

1.45 p.m.

Part III of the Bill amends the Students’ Revolving Loan Fund Act. The fund established by that Act enables loans to be made to students desirous of pursuing prescribed courses of study at the University of the West Indies or any other institute of learning designated by the Students’ Revolving Loan Board.

By the Finance Act, 1998, the duties and functions of the board were altered such that the board is currently unable to determine the courses of study with

respect to which a loan may be granted. This was not intended, Mr. President. It is accordingly now proposed to amend section 10 of the Students' Revolving Loan Fund Act to restore the power of the board to process applications.

Part IV of the Bill amends the Rates, Taxes and Licences (Payment by Cheque) Act. The purpose of this amendment is to bring the penalties under this Act in line with the penalties found in the Negotiable Instruments (Dishonoured Cheques) Act, 1998 for the offence of offering a dishonoured cheque.

Part V of the Bill amends the Income Tax Act.

Mr. President, by clause 5(a), the rate of business levy on the gross receipts of sales of a business has been further reduced from the current rate of 0.25 per cent to 0.2 per cent of the gross or total turnover.

Clause 5(b) seeks to put closure to the interpretational problems encountered in respect of section 10(4) of the Income Tax Act. That section was recently amended in the Finance (Miscellaneous Provisions) Act, 2000.

Mr. President, whilst the intention was that each spouse should be able to claim the \$18,000 deduction, the feedback on the recent amendments suggests that both spouses can together claim an aggregate of \$18,000 in respect of their mortgage interest deduction. Again, Mr. President, this was never the intention. So that the replacement of the words and I quote: "in respect of each spouse", I trust that this amendment would put to rest any disagreement on the interpretation of section 10(4).

Clause 5(c) of the Bill, section 11 of the Income Tax Act would introduce an apprenticeship allowance equal to 200 per cent of the wages actually paid to every apprentice hired by a person carrying on a trade.

Clause 5(j) makes a consequential amendment to the Eighth Schedule to the Act to avoid an employer being able to claim both the employment allowance and the apprenticeship allowance.

Clause 5(k) introduces a Ninth Schedule to the Act, providing details on the criteria required to qualify for this allowance. Mr. President, this amendment is aimed at helping our young people to move smoothly from school to the world of work. To do this, we need the cooperation of the private sector which, through this allowance, will be encouraged to hire both secondary and post-secondary students between the ages of 16 and 24, for short-term apprenticeship programmes. This would assist and break the cycle in which young people

leaving school are unable to achieve or acquire employment because—as employers tell them—they have not had any experience whatsoever.

Apprenticeships are known as entry level training and are designed to provide viable career options for many school leavers. Apprenticeship training offers apprentices the opportunity to earn money while at the same time developing skills in their areas of growth. To promote the benefits of the apprenticeship training, a marketing strategy will need to be devised, targeting employers in both the emerging and the traditional sectors.

Mr. President, parents, students, career guidance counsellors, colleges and tertiary institutions will also be targeted. It will also be necessary to develop flexible apprenticeship agreements, which enable employers to hire young apprentices without compromising principles guiding collective agreements with the unions.

Mr. President, you will recall that over the last five years the basic personal allowance for resident individuals has been increased from \$12,000 to \$20,000. This is all towards simplifying the tax system but, more importantly, at the same time, it was intended to reduce taxes.

Clause 5(d) of the Bill, the Income Tax Act will be further amended to increase this personal allowance from \$20,000 to \$25,000 for persons under the age of 60. Where the resident individual has attained the age of 60, the basic personal allowance will actually be increased from \$20,000 to \$30,000 per annum.

Clause 5(e) seeks to reduce the rate of tax on interest income from the existing 10 per cent to 5 per cent. I want to remind this honourable Senate, Mr. President, through you, that this measure applies to savings in both Trinidad and Tobago denominated currency as well as in foreign currency.

Clause 5(f), all individuals earning salaried income only, would no longer be required to file an income tax return. This measure will take effect from January 1, 2001 and will allow the Board of Inland Revenue to devote its resources to its compliance and enforcement efforts. Again, I wish to remind this honourable Senate, this does not mean that an individual would be relieved from the payment of taxes. Taxes will continue to be payable. However, it will be the responsibility of employers to ensure that all appropriate deductions are made at source.

Under the existing law, the employer is required to deduct Pay-As-You-Earn (PAYE) from his employee's income and remit the PAYE to the Board of Inland

Finance Bill
[SEN. THE HON. B. KUEI TUNG]

Tuesday, October 31, 2000

Revenue. Currently, where an employer fails to deduct the amount of tax required to be deducted from this employee's emoluments or to remit to the Board the amount required to be deducted, the employer is liable to a 50 per cent penalty plus interest at 15 per cent per annum.

Clause 5(g)(ii) amends section 99 of the Income Tax Act to increase this penalty to 100 per cent and the rate of interest charged to 20 per cent.

Clause 5(g)(i) also amends section 99 to clarify the law relating to the deduction of PAYE on emoluments. In other words, we are increasing the penalties where employers fail to deduct the correct amount of tax because we have placed—in a much more significant way—the onus of appropriate and correct deductions on the employer. In so doing, we have eliminated the need for employees to have to file income tax returns from henceforth.

Mr. President, this amendment seeks to make it clear that a deduction is required even where an employer chooses to grant benefits in kind to an employee rather than make cash payments. Mr. President, I want to emphasize that point again that benefits in kind cannot be considered as not taxable and that PAYE will be required to be deducted on the value of such benefit in kind. This amendment plugs a loophole in the law, which may be used by individuals to avoid the payment of taxes properly due to the Board of Inland Revenue.

Clause 5(h) increases the rate of interest payable on all outstanding taxes from its present rate of 15 per cent to 20 per cent. This measure takes effect from May 1, 2001.

Mr. President, even as we take steps to reform and simplify the tax system, we must deal with defaulting taxpayers. In order to purge the system and provide an opportunity for taxpayers to bring their tax status up-to-date quickly, a one-off tax concession has been offered to all taxpayers in Parts V, VI, IX and X of the Bill. Again, Mr. President, I cannot help but emphasize that this is intended to be a one-off concession.

All taxpayers with outstanding liabilities in respect of income tax, corporation tax, business levy, health surcharge and value added tax due and payable on or before December 31, 1999—and let me make sure that that date is heard—is due and payable on or before December 31, 1999, will be granted a waiver of penalty and interest on the amounts due and a waiver of penalty for late filing of return. However, the principal amounts due must have been paid and the outstanding returns filed during the period August 28, 2000, which would have been the date

of the budget, and April 30, 2001. Mr. President, again, for emphasis, I would like to repeat that period—during the period August 28, 2000 and April 30, 2001.

Mr. President, this concession does not apply to returns which should have been filed by today to avoid the penalties for late filing. The concession also does not extend to penalties and interest already paid. The concession has also been extended to cases where the outstanding principal amounts have already been paid and returns filed, but the penalties and interest have not yet been paid. The concession provision is to be made law by clause 5(1), which appropriately—I am sorry.

Sen. Montano: Could you just go back to the last paragraph and start all over again? I am not sure that I heard you correctly.

1.55 p.m.

Sen. The Hon. B. Kuei Tung: Sure. I will be happy to. I am dealing here with the concession for defaulters who have had problems with tax and, as I said, the intent is to make sure that the Board of Inland Revenue can deal with them quickly and take them off their books, or off the records. I am offering a one-off concession to all—call them the problem, or defaulting taxpayers—who have had problems with the Board of Inland Revenue up to December 31, 1999.

I want that date to be heard clearly because as I just said, today, October 31, is the last day before the new penalty for filing income tax returns starts. If you have not filed your income tax return with respect to the year ended December 31, 1999—it would have been due by April 30, but if you have not filed it by October 31, under law, a penalty kicks in. I am saying that penalty which kicks in as of today or tomorrow, as you look at it, is really not under this concession. Is that what you missed? Or, do you want me to still read the whole thing over?

Sen. Montano: I think I understand.

Sen. The Hon. B. Kuei Tung: All right. Do you want me to go right through again?

Sen. Montano: No, no.

Sen. The Hon. B. Kuei Tung: Okay. I just did not want you to think that the penalty that starts today is also under the concession. All the problems that you had with tax or your clients, tax as at December 31, 1999, can come into this concession period which began on August 28, 2000 and expires on April 30 next year.

Sen. Montano: What I was looking for really, Mr. President, through you, is the question of where the taxes may have been paid prior to December 31, 1999, but it was paid late and there is interest outstanding. It seems that that interest is not caught by this waiver. That interest is still due and payable.

Sen. The Hon. B. Kuei Tung: When was it due?

Sen. Montano: Let us assume that we are dealing with, say, year 1997 and the tax was paid on December 1, 1999. There would be interest on that. The tax was paid but the interest is still caught and is not being waived by this legislation.

Sen. The Hon. B. Kuei Tung: The strange thing about this is, if you have paid the penalty and the interest, you cannot get it back. If you have paid the principal and you have been arguing about it, there is a possibility, as long as I said, there are only two conditions. The principal amounts due must have been paid and the outstanding returns filed, but I think you can make a claim for the penalty and interest if it has not been paid, because the concession is with respect to penalty and interest, not the principal.

This concession does not apply to returns which should have been filed—I said that already—by today's date. The concession also does not extend to penalties and interest already paid. The concession has also been extended to cases where the outstanding principal amounts have already been paid and returns filed, but the penalties and interest have not yet been paid. It has also been extended to that. The concession provision is to be made law by clause 5(1) which appropriately amends section 103(a) of the Income Tax Act. That last paragraph actually answers your question.

The tax concessions granted under the Income Tax Act are imported into the Corporation Tax Act through an amendment to section 19 of the Corporation Tax Act in Part VI of the Bill, so both the Income Tax Act and the Corporation Tax Act are being amended to allow for this provision for the concessions.

Mr. President, Part VI of the Bill amends the Corporation Tax Act. Clause 6(a) amends section 3A of the Corporation Tax Act by reducing the rate of business levy from 0.25 per cent to 0.2 per cent. As mentioned earlier, an identical amendment was made to the Income Tax Act by clause 5(a) of the Bill.

Clause 6(b) of the Bill introduces an Art and Culture Allowance by a new section 10G of the Corporation Tax Act. Companies carrying on business in Trinidad and Tobago and which make payments in respect of certified artistic works, will be granted an allowance of up to 150 per cent of the payments made,

up to a maximum of \$300,000. This allowance is designed to encourage expenditure in the promotion of local art, local performing groups as well as artists.

The deduction is only allowable where the artistic work is being done and I want to emphasize this again, by a living, existing individual who is a national of Trinidad and Tobago. The individual must also be registered with the Ministry with responsibility for culture or with the Tobago House of Assembly, in the case of a national residing in Tobago. In the case of the visual arts, the allowance may only be claimed in respect of the initial acquisition of the artwork.

Let me just remind Members of this honourable Senate, that this allowance is intended to encourage the existing people, living people today, in the arts, by getting corporations to support them so that corporations are being encouraged to assist artists who are living today. Obviously, there is a lot of very good artistic work by dead artists that is hanging around which is very valuable. This is not intended to help corporations acquire very expensive pieces of art. It is really intended to assist the living artists to find a market for their work.

Clause 6 of the Bill also adds new section 10H to the Corporation Tax Act. You may recall that the Finance (Miscellaneous Provisions) Act, 2000 introduced a new section 10B of the Income Tax Act with effect from January 1, 2000. Section 10B provides a deduction for persons granting tertiary education scholarships to nationals of Trinidad and Tobago. This provision was inadvertently not applied to the Corporation Tax Act. The result is that this provision does not apply to companies. The new section 10H of the Corporation Tax Act introduced by clause 6 seeks to rectify this.

Clause 6(c) of the Bill increases the tax credit allowed to small businesses against their taxes payable from 15 per cent to 25 per cent. It is expected that this will go some way towards encouraging the small business people to play a greater role in creating employment opportunities.

Mr. President, clause 7 of the Bill amends the First Schedule to the Stamp Duty Act in order to maintain affordable housing and facilitate the acquisition of housing by first-time homeowners. It is proposed by clause 7(a) to increase the existing exemption from stamp duty on residential properties from its present limit of \$300,000 to \$350,000. In the same vein, clause 7(b) amends the First Schedule in respect of the exemption of certain mortgage deeds from stamp duty, by increasing the limit on the exemption from \$270,000 to \$315,000 which roughly represents 90 per cent of the previous named figures.

Finance Bill
[SEN. THE HON. B. KUEI TUNG]

Tuesday, October 31, 2000

There were extensive amendments to Part VIII of the Bill in the other place. The amendments proposed in the other place were intended to tighten the financial management of public funds placed in the hands of the green fund agency. The environment affects us in every aspect of our existence. By our actions or even lack of action, we affect the environment both positively and negatively. We also recognize our responsibility to preserve our natural resources. Corporations, especially, must acknowledge that they play a significant role in contributing to the destruction of the environment. Companies dispose of their industrial or manufacturing waste inappropriately. This negatively impacts on us all. From lead poisoning of our children to the pollution of our air, rivers and streams with industrial waste, the level of pollution of our environment is becoming unacceptable.

Mr. President, we must balance economic progress with environmental care and social responsibility. Government recognizes its responsibility to create a framework for the development of awareness of environmental issues and to persuade the corporate world to accept its social responsibility for the care of the environment.

The Green Fund is to be financed through the introduction of a levy of 0.1 per cent on gross sales or receipts of a company carrying on business in Trinidad and Tobago, whether or not such business is exempt from business levy. Let me also say as an aside, that the Ministry of Finance, Planning and Development is currently undertaking to review this particular Green Fund levy with a view to having it allowed for set off against corporation tax. It is under consideration and if we had the time, we would have been able to have considered it before we brought the Bill, but I propose to put it in the Bill as it is now and if there is any need to have it changed, whereby we will allow corporations to have the green fund levy set off against the corporation tax liability, if any, I will bring an amendment.

This measure is effective from January 1, 2001 and it is going to be payable in each quarter ending March 31, June 30, September 30 and December 31 in each year of income.

Part IX amends the Value Added Tax Act, 1989. Clause 9(a) further amends section 16(5) of the Value Added Tax Act. The existing section 16(5) imposes value added tax where the journey originates in Trinidad and Tobago and I am speaking specifically about air travel now—or Trinidad and Tobago is the place of issue of the ticket for travel. This was intended to prevent persons from

avoiding the payment of value added tax by paying for the travel or tour outside of Trinidad and Tobago. You would appreciate that with the removal of foreign exchange restrictions, it is now easy for anyone to buy tickets outside and so avoid the application of value added tax on air travel when the payment is made outside of Trinidad and Tobago.

Creative travel plans have been designed to attempt to take the supply of that service out of the charge to value added tax. Many tours have been paid for outside of Trinidad and Tobago in order to achieve that objective. The proposal before this Senate is intended to quash the argument that the section does not cover the situation where the travel or package tour is paid for in Trinidad and Tobago.

Clause 9(c) amends Schedule 2 of the Value Added Tax Act to zero rate the sporting goods falling under customs tariffs headings described. Mr. President, the medium of sport has become a strategy in several countries of the world to stimulate the national developmental process. The Ministry of Sport and Youth Affairs has developed a national sport policy which will guide the future promotion of sport in Trinidad and Tobago. The mission of that Ministry looks towards total participation, quality training and excellence in sport.

To this end, the sum of \$473,525 was contributed to fund our national athletes who represented Trinidad and Tobago in the recently concluded Olympic 2000 Games in Sydney, Australia. Honouring our sports achievers contributes towards our national pride and provides motivation and direction to the youth of our country. As part of our national preparation for the next Olympic Games, it is proposed to identify athletes who are most likely to qualify for these games and to provide financial assistance to facilitate their preparation.

We have much natural raw talent in the athletic arena, from Ato Boldon to Brian Lara and Dwight Yorke. Our athletes are rated among the best internationally. We must encourage our young people to develop their God given talent. Accordingly, the measure to zero rate sporting equipment is in recognition of the achievements of our sportsmen and women and is intended to encourage and assist all the young athletes of our country to achieve excellence in the sporting field by making sporting gear more accessible to them.

Part XI of the Bill sets out the commencement dates of the various clauses of the Bill.

Mr. President, as I wrap up, you will remember the theme of my budget presentation for 2001, “building Trinidad and Tobago for a better future, more

Finance Bill
[SEN. THE HON. B. KUEI TUNG]

Tuesday, October 31, 2000

jobs, better education and more caring” has been given life in the provisions of this Bill. There are incentives for the creation of more jobs through the apprenticeship programme and reduced taxation for small businesses, as well as for individuals; better education through the granting of scholarships to nationals and more caring for our senior citizens, sportsmen, as well as the environment. Our economic growth rate is among the highest in the world, averaging 5.5 per cent per year since December 1995.

2.10 p.m.

The unemployment rate has dropped from 16 per cent in December 1995, to around 12.5 per cent today. We expect inflation to remain below 4 per cent. Foreign investment has doubled. We have more than doubled our foreign reserves. This is a record of achievement of which we can all be justifiably proud. This Finance Bill will bring into law, fiscal and other measures which will continue the fiscal policy which has brought us thus far.

Mr. President, therefore, it is my pleasure, I beg to move that a Bill to provide for the imposition of variation of certain taxes, for the incorporation of the amendments made by the Provisional Collection of Taxes Order, 2000 to introduce other provisions of a fiscal nature and for related matters be now read a second time.

Question proposed.

Sen. Danny Montano: Mr. President, another Tuesday and I am still here; I am surprised. At least I know that there is a deadline as to how long I can stay here. Very soon the newspapers will be referring to me as the former Opposition Senator. I look forward to those days, Mr. President. [*Desk thumping*]

Mr. President, I am not going to make this another budget debate; I will spare myself, my colleagues, and the Minister from that painful process, we have just had it, and I think enough has been said.

Specifically, we want to deal with taxation measures that were contained in the recent budget. The first thing I wanted to talk about was the business levy. The reduction of the business levy from .25 per cent to .2 per cent has been heralded as a big event by the Minister that he is reducing taxes. Mr. President, the Minister is on record as saying that the levy is justified because there are businesses outside there that are not paying any income tax, and that this is a measure that is designed to bring those defaulters, if you will, into the tax net. Mr. President, we have had this business levy now for a long time. I wonder why it is

that we have not been able to reach a position where we do not still have to go through this routine. The Minister is also on record—I have had it confirmed by the Chairman of the Board of Inland Revenue—that the emphasis of the Board of Inland Revenue in terms of audit and compliance, is going to be on what they described as the top 800 taxpayers in the country.

In other words, the Inland Revenue Division of the Ministry of Finance, Planning and Development is going to emphasize its compliance efforts on the persons who are already paying income tax at the highest levels. The persons who are not paying at all—whether they should or should not is another story—are literally falling outside of the compliance efforts of the Board of Inland Revenue. The justification for that approach is to leave the business levy. Of course, the business levy is falling as a tax on the biggest taxpayers. Mr. President, it is a nuisance tax. While it is certain that the business levy can be offset against one's tax liability, it does not fall as a tax if one is paying more than the business levy. It is a nuisance, it is cumbersome, and it is expensive to administer. Therefore, it really holds no logic.

It seems to me that the only sensible thing that should be done is that the Board of Inland Revenue, instead of wasting its time on the top taxpayers, should be looking at the people who are not paying income tax at all and turning over millions of dollars a year. I have described a particular situation to her, where it was just extraordinary that a person came to my office and we said: "We cannot help you, because we do not want to get involved in that." I did not call any names because that would have been improper. Companies are turning over between \$10—\$20 million year after year, and paying no income tax, the Government cannot tell me that it is going to leave it alone and charge the business levy; that makes absolutely no sense at all. [*Desk thumping*] The effort has got to be to go outside there. It is not rocket science.

The Board of Inland Revenue has tremendous powers. In fact, our revenue service has more compliance authority than the IRS in the United States of America; I have seen it happen. The Inland Revenue Department can go to one's home to see how one lives. If you happen to be living in a million-dollar mansion with a Mercedes and a BMW parked in your garage and you are filing a return showing that you have an income of \$2,000 a month or something of the sort, the Inland Revenue Division can make an assessment based on the observation of the standard of living that they think you are at. They can just make an assessment, and it is for you to defend that assessment at that point. The IRS cannot do that.

Finance Bill
[SEN. MONTANO]

Tuesday, October 31, 2000

Instead of doing that, the emphasis is to impose the business levy and to hassle the people who are already paying income tax. I have great difficulty with that approach. This is not the first time I have said it, Mr. President. It just does not seem to make any sense. There are areas of this country that have exploded in wealth. Huge houses are being built, expensive motor cars are being purchased, huge deposits are building up in the banks, and no or little income tax is being paid at all, and the Board of Inland Revenue is not concentrating its efforts in that direction. It is so simple! With the powers that they already have, it is so simple. It is so simple to send one person out to tour the countryside to see who is living like who, and then find out who lives there and let us see how much he is declaring as his income. Mr. President, you can send one person out and cover the whole country in one month, and you will pick up a tremendous amount of income. That cannot be rocket science; it cannot be hard! It is so simple that there is no justification for this business levy at all. I cannot, I am sorry, at this late date, congratulate the Minister for reducing it from .25 per cent to .2 per cent. I have to disagree. It should not be there at all. The proper efforts should be made.

Mr. President, the other thing that I take issue with is the question of not filing income tax returns, if one's only source of income is emolument income. I do feel that there is some justification if one has a certain threshold. Below a certain threshold, one need not file tax returns, if that is one's only source of income. As I was just indicating there are businessmen outside there, who have multimillion dollar businesses who draw salaries of \$2,000 and \$3,000 a month from their businesses, and live in palaces. Of course, they are going to drop right out of the tax net. I have difficulty with that. We are not ready for that yet. Trinidad and Tobago is not ready for that yet. I have tremendous difficulty with that.

Not only that but, the Government is setting up a situation where people, once they drop off the system and are not filing their returns anymore, the Board of Inland Revenue loses the opportunity to go and scrutinize those individuals. Even if and when they have legitimate income from other sources, there will be the tendency not to declare it, because they are not filing returns. The individual will be listed as an employee in a business somewhere, the revenue will go to the companies and they will audit the payroll records, and they will see that that is our finding. What they will not see, of course, is that that individual also has rental income from private sources, or interest income or whatever it might be; they are not going to see that. That is the difficulty that I have with it. We are not ready for that yet.

2.20 p.m.

Mr. President, I know that tremendous improvements have been made under the very capable hands of the Chairman of the Board of Inland Revenue, but I do not think that we are quite ready for that and I have not heard anything that anybody has told me to convince me that we have reached that stage of development.

In that vein, in clause 5(g)(2), the penalty for late payment of taxes that have been withheld from salaries—that is the PAYE taxes—has been increased to 100 per cent. I have difficulty with that because my experience—which spans now some 25 years in this country—has been that for the most part, business tend to comply with the provisions here but tend to make mistakes through one way or the other. If mistakes were not made and mistakes are not genuine, then that means that we have a perfect world and nobody would be filing return at the end of the year with a balance payable.

We all know that that happens for one reason or the other. Misunderstandings, misinterpretations and mistakes do occur. The anomaly here is under the existing situation if, in fact, a company pays late—which is the usual situation—he has a penalty of 50 per cent. If, in fact, he pays the wrong amount and it is too low and he is audited, only if he is audited he then pays the penalty of 50 per cent. But you have the anomaly in that if he is not audited, when the individual files his return at the end of the financial year and he realizes that he has a balance to pay he pays it and there is no penalty on anybody.

So there is a bit of anomaly in the situation here and while I fully appreciate the effort to get employers to comply with it, there are provisions in the law that allow the Board of Inland Revenue to apply punitive taxes when you can clearly see that the employer is deliberately fooling around in terms of calculating the PAYE and I have seen that happen. I have seen a situation where the Board of Inland Revenue assessed an employer 300 per cent of the tax that was due. In fact, if the whole amount came out including the tax itself that was due, the whole amount was 300 per cent. So to change this to 100 per cent is not really necessary because in situations where there are genuine errors, this falls as a penalty on the employer and not necessarily the employee, if the employee has misstated whatever it might be. I have difficulty with that. While the 50 per cent was onerous, you are now putting the employer in a very awkward situation if genuine mistakes are made and mistakes are made in the course of business, everybody knows that, and that is why I have difficulty with it.

Mr. President, to move onwards to clause 5(i), the waiver of the liability. I did intercede to ask the Minister if he would clarify the situation of the interest that would be outstanding as at December 31, 1999 assuming that the returns and the taxes had been paid previously and he seemed to think that he had answered the question, but I do not think that he has answered it to my satisfaction. I have read this over and over again, I have asked my partner to read it, and he and I are of the same opinion that while you are granting a waiver in all the circumstances you have described, as I read this and perhaps Sen. Marshall can assist us, maybe he has experts who have looked at it. The way I read this—notwithstanding the crosstalk we have had while the Minister was making his presentation—is that unpaid interest, not penalty, as at December 31, 1999 is still due and payable and is not going to be waived by the wording as it is here.

I know of situations where that exists because what tends to happen is that there are situations where the Board of Inland Revenue can go back five or six years and you can end up with a big assessment, and of course, the interest after six years at 15 per cent is 90 per cent so that what tends to happen is that companies tend to pay the tax in order to stop the interest from running because there is no interest on the interest and they tend to work a sort of accommodation with the Board of Inland Revenue to pay the interest off in installments over a period of time and I know of several situations where that is taking place.

We were called and asked: “Are they going to be exempted from this clause?” Well, we have looked at it and I cannot see how they would be exempted and that does not seem to make any sense. The guys who were completely at fault and have done nothing at all are being completely excused. The guys who did pay and have interest still have to pay the interest. I would like to think perhaps the Minister would show me the wording in here that tells me that interest has been waived because I do not see it.

In clause 6, the provisions dealing with artistic work, I think that the intention of the Minister is perhaps a good one, but I do not see how this legislation is going to work efficiently or effectively and I have several difficulties with it. As it is worded here, the first thing is the way I would read this and interpret it, is that he would get an allowance equal to 150 per cent of the actual expenditure up to a maximum of \$300,000 and I will interpret that as being on each occasion. I do not necessarily read that. I am sure that is what you would like, but you know when we meet in court it would be another story. I would like to think it is only once a year, but it seems to me it is open to interpretation as to whether or not it is per item or per annum. I think that could have, and should have been clarified because

without those two words “per annum” we are opening a can of worms here because you are setting up a situation to create an avenue for money laundering. How so? I will explain.

If I had a chicken and chips company or pizza operation, or whatever—and I am not casting aspersions on anybody who is in business, Mr. President. Let us assume I was in that business.

Hon. Senator: Or computer.

Sen. D. Montano: Or computer. There is no VAT on that, makes it even simpler. I could be depositing proceeds from the sale of drugs to clean up the money as it were. When it hits my bottom line, however, it shows up as income tax. If however, for every piece of art work that I purchase I could get a cover of \$300,000, I could buy a piece of art work from almost anybody, get a gallery to certify it, tell the artist I will give him \$1,000 and give me back the other \$149,000 or however it works out and I could keep doing that over and over again to cover the proceeds of money laundering. That is why I have a difficulty with it.

What has been missed here is that the other side of the equation has not been looked at. The artist is not registered anywhere. Later on it says where the work is registered with the ministry, but that is talking about a performing art. If we are talking about a painting or something of the sort, the work does not have to be registered and the artist himself could be a fly-by-night fellow and probably does not pay any income taxes. He probably is not registered with National Insurance Board, or the Board of Inland Revenue or anything of the sort. So the truth of the matter is that this is an avenue to take money out of the company free of income tax and in fact, you are getting a huge benefit because the claim is 150 per cent of the capital expenditure and it is capital. It is not an item of operating expenditure, it is a capital outlay. So on the other side of the coin, I am 99.9 per cent certain that the artist himself is not going to pay any tax on the sale of the painting and in any event, all he has to say is that he is not in the business of painting, that he just paints one or two pieces as a hobby and if somebody wants to buy it, he will sell it as he would sell his refrigerator. He is not in the business of selling refrigerators, but he may buy and sell a refrigerator once or twice a year and then it is completely free of income tax and you are not really promoting art by doing that, what you are doing is setting up an avenue for a tax dodge. It is not that I disagree with the policy, but I do have difficulty in how it has been done and I think the rules are from where the piece of art work has come and whether it comes from an artist who is in the business of making paintings and whether he is paying any income tax at all. That is where I would like to see something tightened up.

It goes further than that. Supposing now as I say I buy this piece of art work and it is genuine and I get 150 per cent allowance for it and as I turn around, my good friend the Minister who has much more money than I do, says he likes that so much and would buy it from me and pays me a handsome sum for it and I make a huge gain on it. Again, I am not in the business of that. I suppose that within the one-year capital gains rule where it might apply if it is done within a 12-month period. I do not have a firm opinion on that, but if it is done outside the 12-month period then that company could make a huge profit, pay no tax on the profit and given a tremendous tax advantage having purchased it, particularly if it is more than one painting a year and he is getting a \$300,000 allowance on each work. I had difficulty with that.

The other thing I had some difficulty with was the legislation as we have it here talks specifically about a work of art. It is either a work like a painting which we can all understand and visualize, or it can be a performing art. In the case of a performing art, the work must be done by a national. The Minister says it must be a living artist. I did not understand that from the legislation, unless it is that a national can only be someone who is alive. I would assume that Cazabon was a national, but it does not say that he is a national. It says the work is done by a national. So it seems to me that a national could be a national in the past tense. There is nothing in here that says that the artist has to be living. I do not have a problem with it either way, but I do not think the Minister was right in his interpretation to say that it is a living national.

The point of issue is that in terms of a performing art, we could be talking about a play or a song and of course, a song or a play is something that you could get a copyright on, it is something very specific but one of the things I felt knowing how close the Minister is to the steelband movement was that in itself is an art form, it is part of the culture and the steelband is struggling. Up to this morning I was reading an article in the newspapers and I was looking at the difficulties that they have in trying to finance themselves on an on going basis and I was thinking what better avenue than to bring them into this kind of situation, but I cannot see that unless it is a particular work. So they literally have to go through the charade of writing a song. It is a work, it is not that they are an organization and the benefactor under this legislation, literally has to be purchasing a work of art. I do not see where he is simply making a contribution to a *bona fide* registered steelband if there is such a thing. I do not know how steelbands are formed or registered.

2.35 p.m.

I would very much like to get the assurance of the Minister that steelbands would be covered. As I read this, I was disappointed and I said that this is not going to work. You know, Mr. President, you must be reminded that despite the good intentions of the Minister and what the Minister would like to do, and what he is trying to achieve, with the greatest of respect to my friends in Inland Revenue, they tend to take a very narrow interpretation of the law. Quite rightly so, because they are trying to protect the national revenue which is their job. The result is that they take a very narrow interpretation.

And they do not sit back and say, “Oh, well, we know that the Minister wanted to include steelbands and, therefore, we will.” It does not say so. It is not going to happen. I would have liked to have seen that included here and spelled out clearly. After all, the steelband is part of Trinidad and Tobago; it cannot be isolated. When you think of Trinidad and Tobago you think of the steelband and somewhere, somehow, it has to be included.

With respect to the environmental levy, I was delighted to hear that the Minister was looking at the situation of having the levy as an “offset”—my word—against income taxes which, I think, is absolutely essential, because if he does not do that, on average, as a rule of thumb one could assume that the average net profit of a company might be 10 per cent of its gross sales. Therefore, 0.1 per cent of the gross sales is 1 per cent of your profit. So, in fact, without making that offset he has actually raised the rate of income tax by one per cent approximately, and that nobody is happy about.

The other thing that I would suggest to the Minister, too, is that in the legislation for the business levy the words “gross sales or receipts” were used, and the same expression has been used here: “Gross sales or receipts.” I do not know who came up with that expression, but it really is not right. Again, I have not had it challenged by the Inland Revenue, although if I were there I would challenge it. Because gross sales and receipts are not necessarily the same thing. Gross sales or gross revenue is one thing, but receipts is an entirely different thing. If I sell a piece of land I receive funds. They are part of my receipts but it is not part of my revenue. I mean, the interpretation could be made that that should be included in the calculation. It would not be right but it could be made. If you apply for a loan of \$100,000 or \$1 million and you receive it; it comes into your account it is part of your receipts but it is not part of your gross sales. So there is that little bit of an

Finance Bill
[SEN. MONTANO]

Tuesday, October 31, 2000

anomaly. I am sorry that they have used the same phraseology, which really is an imperfect phrase. However, I know it has been working to the satisfaction of everybody so I will leave that alone.

While I fully appreciate, again, the Minister's intentions with respect to the environmental levy, I am extremely wary about it. The next thing we are going to hear is that somebody is going to come here and say that the Minister of Local Government is paving roads with the money from the Environmental Fund and he is going to claim well, it is an environmental project. Funds have been drawn from organizations such as MTS and Tidco to pave roads and I would shudder to think that that is what is going to happen here.

The other thing I would like, if the Minister could answer for me is, what the anticipated or expected revenues of the fund would likely be? What the operating costs are likely to be? And, therefore what the surplus in the fund would be? How much would actually be left over to be used specifically for environmental matters.

Mr. President, as I said, I really did not want to get into a debate on economics or even finance or to talk about the public debt, which I am told, is actually \$39 billion and not \$29 billion. We would not get into those today. We would hopefully leave that for another occasion in another Parliament.

Mr. President, I thank you very much.

Sen. Prof. John Spence: Mr. President, I just have a few comments to make particularly pertaining to the environmental fund which was just being discussed by Sen. Montano. I really feel that the details of the structure of the management of that fund should not have gone into this Bill because this is a Finance Bill and, clearly, we are unable to, as a Senate, vote on this Bill, and by putting all of that structure into this Bill we are immediately constrained in being able to amend it. So I think really that is a very serious error. That should not have gone into this Bill, it should be a separate Bill. Nevertheless, I would comment on some aspects of that fund.

First of all, I, myself, do not understand why it is necessary to have a separate Green Fund when the Environmental Management Authority already has a fund and all the things that are proposed to be done in this fund could have been done under the EMA. So, instead, one sets up a separate superstructure with a secretariat, presumably, and I hope that Sen. Montano's question would be answered by the hon. Minister and that is, what is all of this going to cost when

you already have a structure for dispensing funds in the Environmental Management Authority.

Really, one has to ask the question: Is this fund a smokescreen to hide what we might not be doing with respect to the environment in other areas? For example, unfortunately, the hon. Minister is not listening to what I am saying, and this is a very great pity. But I hope that when we come to discuss another Bill, which is currently before us and which we started discussion on, which tends to undermine the authority of the Environmental Management Authority, that he will support amendments that I will make for that Bill, which would restore the authority of the Environmental Management Authority. I am very worried that this may not be a smokescreen to hide the fact that the Environmental Management Authority is being undermined in other respects.

I really cannot see the need to have this fund at all. I would ask the question—I am not a financial person so I found it very difficult to understand the comments latterly made by Sen. Montano. But am I to understand that the payments to this fund are set off against income tax? *[Interruption]* They are not going to be—but that is what you intend to do. Well, if that is the intention, the question I have to ask is: Who then is paying the fund? If it is set off against income tax all you are doing is to reduce income tax payments that would have been made and would have gone into general revenue. So all you are doing is taking it from the general revenue.

So what is the point of the whole exercise? You set up an exercise, you say that you are charging the business a little bit extra in order to fund the Green Fund, and then you come back and say, “No, I am not really going to do that, I am going to take some money from general revenue anyhow and put it into a fund. That seems to be a complete nonsense. I just do not understand what is going on. Perhaps the hon. Minister can explain that to me, as well.

I assume that we are having a fund, which is going to be an extreme payment. If it means that you are increasing the tax by one percent, then decrease the level of the fund so that the tax payment does not increase by one per cent—it increases by 0.1 per cent or whatever you want it to be. That is just an arithmetic adjustment. But if you are going to turn around and say that the fund is going to be paid out of the payments he would have made on his income tax anyhow, I think we ought to be absolutely clear on what we are doing, and not just slip it in as a sort of comment on the side. That is all that this Senate understands, that, really, we have set up a fund, the money eventually will come from the general revenue, and for some reason we set it up in this separate way instead of putting the money into the EMA Fund. So Mr.

Finance Bill
[SEN. MONTANO]

Tuesday, October 31, 2000

President, as I said, I hope that the hon. Minister will support my efforts to ensure that the EMA still has the strength that it should have if the environment is to be protected. Thank you, Sir. [*Desk thumping*]

2.45 p.m.

Sen. Prof. Julian Kenny: Mr. President, I have some brief comments and I will be adding to the concerns expressed by Sen. Montano and Sen. Prof. Spence. My great fear about this Green Fund is that it will convey the impression to the Government and the people of this country that they have set up a mechanism for dealing with some of the horrendous problems through the use of NGOs. Now, I could give many examples of things that need to be done. Just one of them will illustrate the point.

To protect our water resources, we are told by international consultants that we have to do reforestation. The amount of reforestation that we have to do in the Northern Range, the Central Range and the Southern Range, the actual area that we have to do and the time period in which we have to do this to protect our water supply will cost millions of dollars, and this cannot be done by NGOs. It could only be done by national policies through the ministries. We are reforesting about 20 hectares a year and the consultants tell us that we need to reforest a total of 5,700 hectares. So in terms of our current efforts, if we actually do the reforestation and we protect what we plant, it will take us a couple of centuries. It is a hard, harsh reality that when we chop down our forests the run-off is greater, we do not recharge our aquifers and we have flooding. I mean, it is so elementary. We cannot do this kind of exercise with NGOs.

Mr. President, my question was, of course, not answered but I had the rather strange experience of, a little over a week ago, being invited to a meeting of several technical people, and this was chaired by the Sustainable Development Unit of the University of the West Indies. We spent from 1.30 p.m. until 6.30 p.m., and what were we dealing with? That group, including the Chief Executive Officer of the EMA and various other people from the EMA, was being asked to help the EMA determine the priorities of work which we have to do. Here we had a board recently appointed, whose responsibility is to do precisely that, and citizens are being asked to take their time and spend it with other people to determine priorities.

Now, the problems that we are dealing with in the environment cannot be dealt with in this way. There has to be a strong, positive direction from the Government. I am not opposing the Green Fund but I do not think that this kind of fund is actually going to help much in solving the problem. What are we going to

do? Are we going to get an NGO to go up in the hills in Fort George and start planting trees? It simply is not going to work. I was looking at the composition of the agency—a chairman nominated by the Minister, three members representing the Environmental Management Authority—it does not say whom. It does not say whether it is from the board or from the authority itself. It could be three very junior people or it could be three board members. Then it says, three members representing labour. Why labour? I mean, I have nothing against labour. Then, there are three members representing the private sector.

Now, there are no NGOs here. An NGO is not the private sector. So I am afraid, Mr. President, that Sen. Prof. Spence talked about a smokescreen. I think one can do a lot through the NGO movement but this must not deflect from the need for the State to make strong, powerful initiatives regarding some of the major things in the environment. Thank you, Mr. President. [*Desk thumping*]

Sen. Nafeesa Mohammed: [*Sen. Marshall rose*] [*Desk thumping*] Mr. President, I thank my colleague, Sen. Marshall. Mr. President, it is rather interesting that we are here this afternoon dealing with the Finance Bill. Last week I remember when we were leaving this Chamber, some Senators were actually bidding farewell to each other. However, seeing that we are here, we are here about the people's business, and in looking at this Finance Bill before us, I would like to make a very brief contribution and just express some concerns with one or two aspects of the Bill.

In Part II of the Bill, the hon. Minister made mention of the amendments to the Old Age Pension Act, which dealt with the increase of the pension. Now, we know that over the last few years with his budget speeches and so forth, part of the politicking that has gone with these budget presentations has been to boast about the various increases for pensioners. However, we know, Mr. President, that only last week we received the very disturbing news about several pensioners in various parts of our country not having received their pension moneys. Something seems to be going wrong somewhere.

I would like, in an important debate like this, the hon. Minister to give us some information so that the fears of people can be allayed, because I know of several persons, particularly pensioners, who are very worried about whether they will, in fact, be receiving their pension cheques this month. Many concerns are being expressed and we would like to know, certainly, what steps are being taken by the Government through the Ministry, the relevant agency that is involved in the matter, so that some of these fears can be allayed. It is a very serious matter because we are dealing here with pensioners.

Finance Bill
[SEN. MOHAMMED]

Tuesday, October 31, 2000

These are people who depend on this little income for their day-to-day existence. For them to be worrying about this kind of situation is a very serious matter. Certainly, whichever ministry or agency that is responsible for the distribution of these funds, we hope that whoever it is, is brought to book. Instead of leaving the matter up to speculation, the Minister and the Government of the day must take full responsibility and blame for whatever is going wrong. [*Desk thumping*] Because there is a saying in our country, that when the head is rotten the fish is bound to be rotten too, but we will hear more about that, Mr. President.

Mr. President, Part III of the Bill deals with the Student Revolving Loan Fund Act. Now, sometime ago we on this side expressed some concerns about the cost to students of attaining tertiary education, because we know in the last few months this Government has been boasting and trying to take credit by talking about a revolution in education, universal secondary education, education for all and about the 10,000 students who have, in the past, been on the streets. The country knows that all they are doing is simply politicking because our record, when it comes to education in this country, is unbeatable and unmatched by all other governments in this country. [*Desk thumping*]

Mr. President, I say this because, when it comes to tertiary education, we know that for many years, especially under the People's National Movement, there was a guiding principle in our education policy, which was based on equality of opportunity for all. For many, many years the PNM government had, in fact, been bearing much of the economic cost of our students at the tertiary level. Over the last few years we know that—I think it was in the late 1980s—a cess, a tax, had been imposed on university students. As a result, the economic cost of a Trinidadian and Tobagonian student at the university has now escalated to the extent where there is a view being expressed that students who attend our university today are mainly students who can afford to. So that whole concept of equality of opportunity is dissipating because it means it is only the rich, or those who can afford to pay \$15,000 and \$20,000 a year, who can now have their children in the University of the West Indies.

Now, Mr. President, if the cost of attending the university or attaining a tertiary education is rising, I know that one way of assisting students was to guarantee certain loan facilities through the commercial banks in the country. Through this mechanism, many students were able to get some kind of assistance or relief, and there is nothing wrong with that. But, Mr. President, one of the concerns that is being expressed is the very high cost of obtaining these loans. I just use this opportunity, as we are talking about a student revolving loan, to say

that if the Government is really very serious about education or assisting persons at that level, certainly some kind of assistance can be granted in that regard. I say this because, if certain guarantees are being made available through the Government, then perhaps some kind of ceiling can be established in terms of the cost of these loans because it is affecting many, many students who have very high repayments, and you know the reality of the matter, Mr. President.

Last weekend, hundreds if not thousands of students graduated from our University of the West Indies right at the St. Augustine campus and we have to ask the question. How many of these students are going to be gainfully employed in the foreseeable future? I know many of them who have been sending out applications. Some have crossed 100 applications already and they have these bills to repay. So this is a reality with which we have to deal and I am making a plea to the Government to look into this matter. In fact, it may well be late for them. We know that we have to take this on board, and this is a matter that we in the People's National Movement are certainly attending to. Mr. President, when they go around boasting and bragging about education and whatnot, we know it is just lip service and all they are doing is playing politics with the lives of our children and the young people of Trinidad and Tobago. [*Desk thumping*]

We go on with this Finance Bill. I wish to take the opportunity once again to raise a very small matter of concern that I raised privately with the Minister of Finance some time ago. Under the heading "Stamp Duty" in Part VII of the Bill, I simply wish to inquire into the status of the removal of the estate and succession duty certificate which used to be required for persons who died prior to 1981. I have made some inquiries and I have gotten some information, but I am still waiting for some confirmation that the mechanisms have been put in place to ensure that this requirement is no longer being asked for when one takes a document to be stamped at the Department of Inland Revenue.

3.00 p.m.

Mr. President, I wish to raise the ongoing issue of problems that persons involved in those registries operated by the state that deal with the transferring of title to property experience, and the hardships that are still being experienced since the relocation of the registry from the Red House to the Huggins Building.

Mr. President, my information is that a couple weeks ago, when there was this major earthquake in our country, considerable damage was done to the vault at the Huggins Building and, in fact, some shelves fell down and injured some of the persons who used the vault where the Land Registry is now being housed at the

Finance Bill
[SEN. MOHAMMED]

Tuesday, October 31, 2000

Huggins building. From day one, we have been indicating to this Government that the Huggins building was inappropriate for the relocation of the registry but, for whatever reason or reasons, they have proceeded with the acquisition of that building and have relocated the registry.

We know that the hon. Attorney General came into this Chamber—and we have read the reports about a few months ago when the Government turned the sod for the construction of a new vault on a parcel of land near to the Huggins building. Again, with the recent earthquake, we understand that a considerable amount of damage has already taken place down there.

Mr. President, in the meanwhile, so many of our search clerks are being affected and one cannot get a search done on a timely basis at all. My information is that when the search clerks get there they have to scramble for space. They cannot get the books since the shelves fell down and—it is a virtual standstill down there and hardships are being experienced.

I am told that the hon. Attorney General visited those premises even as late as yesterday, but yet no kind of assurance or relief is forthcoming to the many persons who are affected. The search clerks who used that vault and the land registry are the persons upon whom we have to rely to get the information for all our legal transactions pertaining to land. Whether it is a bank, whether it is an individual buying a property, whether it is a matter of serious concern that affects all of us. As a country, it affects the economy of the nation and I would like the hon. Minister of Finance, Planning and Development to please look into this matter. It requires some urgent and decisive action.

Mr. President, as we move on to this Finance Bill, we see Part IX of the Bill deals with the environmental levy, I know some concerns have been expressed. I wish to make an analogy with the setting up of this fund with a fund that was set up sometime ago in our country and that fund is the road improvement fund.

Mr. President, we know that sometime—I think it was prior to 1995—an Act was passed in this Parliament. In fact, I am trying to get hold of the actual Act and I am awaiting it. There was a piece of legislation enacted by the Parliament of Trinidad and Tobago that catered for this road improvement fund whereby a tax was imposed specifically for the purpose of effecting certain road improvements in our country.

Mr. President, we know that since 1991, an Act was in force in our country, known as the Municipal Corporations Act, which is an Act that sets up the Municipal Corporations throughout the country—I think there are about 14 in all. The whole concept of that piece of legislation is to decentralize the system of local government in our country by establishing regional corporations in various parts of our country. In the operations of these local government bodies, it is envisaged that there will be a certain kind of devolution of authority, and that in each corporation funds will be allocated through the Ministry of Local Government in order to undertake works in the particular region. Elected counsellors—people who faced the polls and who are elected—have control over that particular region and are supposed to be actively involved in the development of those communities.

Mr. President, I am making the analogy here with the establishment of this Green Fund and these two pieces of legislation to highlight our concerns about how this Green Fund will be operated and administered. Under the UNC administration in Government, we have seen a virtual subversion of the provisions of the Road Improvement Fund and, indeed, the Municipal Corporations Act. I have concrete information and documents pertaining to this, which I would like to place on the record in the context of this Green Fund that is being set up.

Mr. President, we would like to know how is it one could have a situation where funds are allocated to a particular regional corporation and these funds are being used to effect work in a region outside of the particular regional corporation.

I have in my hand, a document dated July 14, 1999 and the headline here is “The Chaguanas Borough Corporation Unemployment Relief Programme”. It is an application for reimbursement of wages paid to special projects from the Chaguanas Borough Corporation, Unemployment Relief Programme releases. In this document, a list of special projects which have been undertaken for the period September 1, 1998 to September 30, 1998, funds were being claimed to clear these expenses which were paid out of the Unemployment Relief Programme moneys paid to the Chaguanas Borough Corporation. Mr. President, here what are these projects: Boundary Road—Boundary Road is a place in Aranguez; the Barataria Pavilion, \$121,000; Bamboo Pavilion, \$111,000 and the St. Joseph Constituency Office, \$166,218.76.

Mr. President, here it is we are dealing with a Finance Bill. We are dealing with the finances of our nation and here it is we have documentary proof of taxpayers’ money being allocated to a regional corporation and being used to

Finance Bill
[SEN. MOHAMMED]

Tuesday, October 31, 2000

renovate the St. Joseph Constituency Office? More than that, it is being taken out of the Chaguanas Borough Corporation to effect repairs in the constituency office in St. Joseph.

Mr. President, this is a total subversion of our local government authority.
[*Desk thumping*]

Mr. Shabazz: That is a serious point.

Sen. N. Mohammed: With respect to the road improvement fund, I have another document here from the Chaguanas Borough Corporation, the development programme for the month of August, 1999, under Head 170, Road Improvement Fund, Ministry of Local Government. This is from Chaguanas and of the listing of roads where funds were allocated and released to deal with road improvement, there are only two roads in the Chaguanas area, Ramsaran Street and Mulchan Seuchan Link Road and the other roads—some are in Cunupia and some are in Warrenville. Mr. President, the other roads are: Maryland Road, Ali Street Pasea, Mc Sweeney Street, Tunapuna; Govia Street, El Dorado; Jitman Street, Tacarigua, Persad Street, Tunapuna; 4th Street Five Rivers; Mohammed Street, Pasea; Bamboo No. 3 and Centenary Street, Pasea.

Mr. President, there is a local government body known as the Tunapuna/Piarco Regional Corporation which has the authority to deal with these matters. How is it these funds are being allocated from the Chaguanas Borough Corporation? This is what we are very concerned about, the destruction of our institutions in this country. That is why, with the establishment, through this Bill, the Finance Bill, or the proposed establishment of a Green Fund, we have to express our concerns.

3.10 p.m.

We know that under the law of the land there is a Road Improvement Fund that has been set up via legislation in our country and this Government has not been complying with the provisions of that piece of legislation. I am sure the hon. Minister of Works and Transport knows what I am talking about. For their five years in office, they have been disregarding the provisions of that Act and they have been doing their own thing, simply for political expediency and political purposes and not in the genuine and true intent of the development of our country. They are prepared to subvert our institutions simply to score political points and for political expediency, then to go about the place and boast and brag about how many drains, how many roads and how many bridges they built. It is the manner

in which they do it so when they talk about performance, it is the manner in which they are performing that we have to question them. It is only a matter of time before the people send that loud and powerful message to them.

In terms of this proposed green fund, we know that when we are dealing with environmental matters, we came to this Parliament; they said they could not set up an environmental commission because the Environmental Management Authority Act, which was passed under the PNM government in 1995, needed a special majority to be passed and in that way they could set up a commission. We came to this Parliament and we agreed and gave the Act a special majority in order to have this commission and to rectify whatever it was they claimed was wrong with the procedure that was adopted then. We gave the special majority and we have to ask the question: Where is the Environmental Management Commission? More than that, we have received in our papers, documents with proposed legislation from this Government where the intent is clear. Looking at the provisions of some of these pieces of legislation, there is a glaring attempt to emasculate the provisions of the Environmental Management Authority and to undermine the operations of the Environmental Management Authority. I am sure many of the Independent Senators will testify to that. It is there for all to see.

How is it we have set up this independent body, the Environmental Management Authority, a body that is supposed to operate in an independent manner, and there are provisions where, if certain projects are being undertaken, there are certain types of certificates and clearances that have to be obtained. I have in my possession—we do not have the time for me to read it—a document that deals with the proposal to develop a port and ferry service facility at Toco Bay, Toco. It is a document from the Town and Country Planning Division. It is dated September 22, 2000. I will read it for the record.

“A meeting of the Review Committee on the above EIS was held on 25th July, 2000 and a deficiency report documenting the views of the Committee and requesting additional information is to be forwarded to the proponent. A copy of the draft deficiency report is here submitted for your assessment. You are required to submit your written comments by October 2, 2000.”

This was a document addressed to a particular group in this country, but in this document, it has the deficiency report of the Environmental Review Committee on the Environmental Impact Assessment for the proposed development of the Toco port and ferry service and supporting facility at Toco Bay, Toco. It is a very elaborate report. It is frightening to see the provisions of

Finance Bill
[SEN. MOHAMMED]

Tuesday, October 31, 2000

this report and although they claimed they have stopped the project, we know they are still planning to do it in some other part of the island. I hope to God they do not go down to Manzanilla and Mayaro. Now I am hearing Barataria/San Juan.

They are supposed to be building a tunnel through the North Coast to get to God alone knows where. I understand some big 200-room hotel is being built in Las Cuevas. The assessments for these projects are very questionable.

Mr. President: Senator, I have given you a lot of latitude this afternoon. Please speak to the Bill now.

Sen. N. Mohammed: Mr. President, I was simply expressing some concerns with the establishment—

Mr. President: Speak to the Bill, please.

Sen. N. Mohammed: Yes, I am speaking to the Bill. As we talk about the establishment of a green fund and the levy that is being proposed in this Bill, we have to express concerns, particularly with regard to the administration of this fund.

Mr. President, section 64 dealing with the proposed levy, Part VIII of the Bill says here:

"The purposes of the Green Fund are:

- (a) to enable grants to be made to individuals, community groups and organisations primarily engaged in activities related to the remediation, reforestation and conservation of the environment; and.
- (b) to undertake or do all such things as are incidental or conducive to the attainment of the purpose referred to at paragraph (a)."

Mr. President, certainly, looking at these provisions here for the establishment of this fund, we have to express our concerns in terms of the controls that will exist for the proper administration of this fund. That is why I made the analogy with regard to the Road Improvement Fund because the Government has been breaking the law. It has been doing the crime and it is time it does the time. With this green fund levy, the concerns are very strong. We know; we have been hearing and getting reports about this prime land known as Invader's Bay. I understand leases are being granted to individuals or private groups.

Mr. President: Senator, you are going off again. Please.

Sen. N. Mohammed: Mr. President, as we talk about this green fund, our concern, basically, is to ensure there are proper checks and balances in place and, more than that, the Government, whichever government is in power, would have to follow the legislation in a manner that the law would, in fact, be carried out, because it is a very wide and open kind of situation that is existing.

Mr. President, I go on to Part IX of the Finance Bill with respect to the amendments to the Value Added Tax Act. We heard the hon. Minister talk about provisions with respect to persons buying tickets abroad. From the time I heard him talk about air travel, I could not help but think about the plight of so many citizens who had in their possession tickets to travel on Air Caribbean and with the recent difficulties encountered by that company, we have to express some concern and hope that something will be done to assist those many persons by honouring those tickets. Not just the persons who have tickets but, certainly, we know what is happening with the workers who have been suddenly laid off.

It is rather interesting. I mean, we are glad that they have made provisions to remove certain sporting items from the Customs Act and exemptions are being given in terms of sports footwear. What is rather interesting and I am wondering how come this particular sport is getting so much special treatment, but nonetheless I am sure those persons who are engaging in it would be grateful for it—the golf requisites. It is a pity, because the man in the street and the poor man in Barataria and San Juan do not really play golf. We are glad if it is being given as an incentive for sports generally. I see some tennis items are being exempt; some soccer, athletics and cricket. Certainly, we appreciate those little exemptions there.

With these few words, I thank you for giving me the opportunity to speak on the Finance Bill. [*Desk thumping*]

Sen. Philip Marshall: Mr. President, as Sen. Montano said, we do not want to go over a budget speech here, but the nature of the measures, especially with respect to the waiver of interest, were so innovative that I believe I ought to speak on some of the issues behind it in terms of governments in the way forward.

Mr. President, the politics of taxation and the behavioural implications are very complex issues and, in fact, a science by itself. I have developed a simple model that I call revenue effectiveness, so we could all understand it in this brief contribution. I say that model is that the revenue effectiveness, meaning the effectiveness of the Inland Revenue Department, can be computed by the tax rate established by the Minister of Finance, Planning and Development by the overall level of compliance.

Finance Bill
[SEN. MARSHALL]

Tuesday, October 31, 2000

It has been proven many times over and over that, in fact, you can collect more revenue by lowering of tax rates, you can increase the overall collection by reducing the tax rates because the overall level of compliance will be increased because as your tax rates are reduced, those most able to afford it, will not go to very expensive ends sometimes to avoid the higher rates of taxation.

Mr. President, I am talking here about tax avoidance is legal, tax evasion is, in fact, highly illegal. I see that, in fact, on the Order Paper today, we are talking about the Freedom of Information (Amdt.) Bill and I know that in the United Kingdom, for example, the following types of statistics are published.

The Revenue Department actually publishes global statistics on what percentage of taxpayers pay tax in the respective income-earning bands, so one actually sees that in terms of personal taxation, or taxation in terms of small business, how effective their revenue department has been in the whole collection process.

Mr. President, this Government, when it assumed the governance of this country, talked a lot about a quality nation and I want to put this in the context of this Bill, a compliant nation. I would like to categorize our taxpayers, maybe into two categories, responsible taxpayers and less responsible taxpayers. I would assume that the hon. Minister of Finance, Planning and Development, in terms of the waiver of interest, as proposed in the amendment to section 54A(1) is that although he has not said this specifically, this waiver is not a benefit for recalcitrant taxpayers, just simply to encourage them to pay the principal sums due, but although it has not been stated specifically, what this is going to be is a watershed day in this nation in the operations of our Inland Revenue Department, where what we are going to come forward with in the future is legislation which will say that this is a period of amnesty, that this is your last transition period. Pay up your taxes or else, in the future, the Government is going to enforce the law.

I am not recommending that any government of the day increase our rates of taxation. What I am recommending is a duty of Government to treat with equity, the citizens of the country in respect of certain rules and regulations and you cannot have a situation where some citizens who are responsible and follow the rules and those who are even financially better off, break the rules with impunity.

3.25 p.m.

It is not that I want to say that we should be paying more taxes. What I am saying is, if our revenue effectiveness increases, the Government, or any

government of the day, can move forward with reducing its tax rates or, at least, not increasing it, because the overall compliance is there as a whole.

Mr. President, I know that the Inland Revenue Department is receiving advice from abroad. We all know that in the United States of America one is scared of two groups of people: the police, if you are misbehaving in public; and the IRS. We have to enforce that behaviour pattern in Trinidad and Tobago. We have to make sure that we link up the information concerning VAT, customs, corporation tax and income tax returns in such a manner that the correct amount of VAT is handed over.

Where informal businesses are concerned; I am not suggesting for a moment that our companies that are quoted on the stock exchange and all other legitimate businesses *et cetera*, break the law. What I am saying is, there are large groups of businesses in the informal sector, because they do not want to return their correct amount of corporation tax, it means that to make their books balance, they cannot, for VAT purposes, also return the amount of revenue. To avoid corporation tax or income tax, and to avoid maybe being caught by a sampling of a VAT inspector, they would have to charge the customer VAT, but actually pocket it. We have to make sure that our future legislation encourages a consistent type of behaviour that will, in fact, realize the Government's or any government of the day, economic objectives.

I would like to follow up on the point just made on the issue of, I understand, reducing the processing workload at the Inland Revenue Department, maybe we do not send in income tax returns. I would like the Minister of Finance, Planning and Development to consider, why do we not, on the TD4 slip, make the taxpayer, without an additional piece of paper, sign a declaration that this is his only source of income. [*Desk thumping*] Let him, on that same piece of paper, say: "I hereby declare that this is my only source of income." Let it be a positive statement by that taxpayer, as opposed to: "Well, I never said that I had declared all my income." That is one aspect of it.

Mr. President, we also have a lot of anomalies. I have raised this point already; we have in our Stamp Duty Act, if someone buys a residence over a certain amount, he pays a very significantly increased amount of stamp duty. What does that cause? Once again, it causes evasion of transfer values *et cetera*. Here we have a situation where a taxpayer is supposedly paying a capital gain on a private residence, but in no other part of our legislation, do we really have to pay capital gains. I encourage the Minister to consider that such a stamp duty paid on the transfer of a highly valued asset—because you want to say how he is able

Finance Bill
[SEN. MARSHALL]

Tuesday, October 31, 2000

to pay it—is set off, as against his remaining liabilities, to some extent. So you have the ability to capture the information but, yet the final hit to the taxpayer in that category is consistent.

Sen. Montano talked about the assessment and the whole issue of customs and VAT. In countries abroad, they look at your business. If you do not want to put in the correct returns they thoroughfare, and if you are in a retail organization, they assess you, and you have to prove to them why that assessment is not correct. We have to go to that situation. We have to put moneys in the Treasury. We need such a challenge in terms of the social welfare. Look at the things we are talking about: children with schoolbooks and a university education. We are letting taxes that are rightfully payable, according to our law, go through the net, because there is a consistent hit by the Inland Revenue Department on those already compliant taxpayers. We should measure them on their ability to make inroads into those less responsible taxpayers.

I really believe that the Minister of Finance, Planning and Development, in his annual publications or his annual report, should share with the nation how effective the revenue has been in terms of tax collection and tax compliance; the whole objective being the more we collect, the lower our effective rate of tax can be across individuals, and the longer term objective of reducing direct taxation.

Mr. President, we should look at, maybe, reintroducing the proper systems in the licensing of vehicles. I totally agree with those sentiments, where people have assets such as a motor vehicle, where all sorts of escapades could be committed, and there is no trace. We have no excuse now to say proper systems cannot be brought or implemented in our Government. We should extend this as well to our customs. I would support the changes made here, but on one condition: it is a stepping stone for continuous improvement in the whole administration of our tax system.

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

Sen. Muhummad Shabazz: Mr. President, it seems probably fitting to start where the last speaker has ended. The whole question of taxation in Trinidad and Tobago could really be improved if we have better tax collection agencies, better by far. It seems as though a lot of taxes are lost because the way that we collect is not the best way to do it. Probably we are not collecting 50 or 55 per cent of the taxes that we should really be collecting. The way a number of things are structured, you may find loopholes where people could get away from paying taxes.

Mr. President, my intent is really to deal with two parts of the Bill. One of the two parts of the Bill that I intend to deal with is clause 6 which states:

“Art and
culture
allowance

10G.(1) Subject to this section, where in a year of income commencing from the year 2001, a company incurs expenditure in respect of an artistic work, there shall be allowed as a deduction, in ascertaining the chargeable profits of the company for that year of income, an allowance equal to one hundred and fifty per cent of the actual expenditure up to a maximum of three hundred thousand dollars.

- (2) In respect of a visual work of art—
- (a) the deduction may only be claimed in respect of the initial acquisition of the work; and
 - (b) the deduction may be allowed where the work—
 - (i) is done by a national of Trinidad and Tobago; and
 - (ii) is certified by an art gallery, which shall submit a valuation of the work done.”

All that is fine. Mr. President, I have heard Sen. Montano speak about what the loopholes could be. I think it is welcome once we are doing something for the artistes in Trinidad and Tobago. There are a number of things that we need to look at, Mr. President. Is this the first way that we should go when we are talking about art and the artistes in Trinidad and Tobago?

Mr. President, we are hearing that a march is coming up in Trinidad and Tobago on Friday, to deal with copyrighting and the payment of dues for people who have done recorded work in Trinidad and Tobago. I could safely say that the committee, of which I have always been a member, fought to bring about copyright in Trinidad and Tobago. We fought to ensure that there was a collecting agency. This agency had done a lot of work to ensure that there were certain benefits and privileges granted. Artistes were allowed to bring in their work and not pay duties and so forth.

What we have heard over the last five years seems to be a whole lot or promises as to what will be done for the recording artistes, and nothing has happened. We have heard the Government’s condemnation about the concert hall. Mr. President, this is something we need to look at: when a nation could spend

Finance Bill
[SEN. SHABAZZ]

Tuesday, October 31, 2000

approximately \$30 million or \$100 million on the Miss Universe Beauty Competition and hold its World Steelband Festival, which is its national instrument, without a proper concert hall, and the rains could wash it out, it must be an indictment on any government; whether they are running this country for one, two or three years, it must be!

It is the duty of the Government—if the Government could spend that amount of money on the Miss Universe Beauty Competition, ADDA, Ringbang, and hold a World Steelband Festival, that rain could wash out in a country which it has governed for five years, it must be accountable. There is no need to talk about 40 and 50 years ago.

We are talking about giving artistes rights, but where is the national museum? The Government is saying that the PNM did not do it, but the Government has been here for five years, what improvements have been made?

3.35 p.m.

You are saying that we did not do it but you have been here for five years; what improvement have you made? The Performing Arts Society, the place for the playwrights, where are these places? They do not have a clue about these things and what direction they are going as far as this is concerned.

Mr. President, ever since we have been coming to this Senate for the last five years, we are talking about developing the artistes and we still have the library which is a national—I do not know what to call it, but it is a bad sight in Port of Spain. That library has not finished and would not be finished after five years of this Government and we are talking about helping the artistes.

You may soon hear somebody on that side jumping up and saying: “Point of order, you are not in order.” But this is the order we need to go in, this is the direction we must go. Where are these places? Where are the proper sports centres? We are hearing now about developing the artistes and developing sports giving relief to sport, for soccer gear and all kinds of things. We see they have given some space in the stadium to 18 sporting bodies, but we had on board—to ensure after we had built the stadium and which we are going to do very soon—to build the sport administrative centre to ensure these sporting people have the proper places. *[Desk thumping]* They do not care about sports and I hope I am not going too far but the places they built for sports, the Centre of Excellence is being used for all other things and not really having the sporting activities that should be there. They are making sporting places political places.

Mr. President, on Friday this march we are going to be seeing with the Copyright Association is a sad thing you know. They are asking that 50 per cent of their music be played on the radio station. Do you know why? When they keep \$1 million in Trinidad for airplay on the radio, \$10 million goes outside. The hon. Minister knows that, we have spoken about that here. The \$10 million is about ten parts outside to every one that stays inside and then they are telling us about when we were in power. We did what was necessary at the time. Look how many radio stations there are under this Government and you are not getting the type of airplay for local artistes that you want and there are promises and promises that we are going to administer and pass Bills.

Do you know what is sad? Although they have passed no Bills for the artistes, they have passed over 200 Bills in the last five years. A number of them are not assented to, they are not implemented. They are only passing the Bills and not implementing them and they are rushing to implement what will be necessary for them to talk about when they go out on their trail, but we are going to be dealing with it, Mr. President. When they are on the hustings, they want all these Bills and they are rushing them quickly and taking this Senate through a whole lot of stress and we are hearing it is not a political thing. Nothing could be more political than that.

Mr. President, even though we are glad that the artistes would be getting their due, we are saying on this side that they are starting on the wrong end, they are putting the cart before the horse. I am not really laughing or trying to make fun of my dear friend, the Minister of National Security, but they are really putting the radios before the vehicles. They are doing that again.

Mr. President, the next part of this Bill I really want to talk about is the apprentice allowance rules. When I saw this in this year's budget, do you know the first thing I said? I took some credit for it, but I took some credit for it with Sen. Yuille-Williams. It was the constant talking from this Senator and to some extent, myself, which I felt brought this about, because we constantly spoke about how this Government treated the young people and the programmes that were implemented by previous administrations for young people. We spoke about the Conservation Corps, the youth camps, the on-the-job training and the Geriatric Adolescent Programme. These programmes were really apprenticeship schemes that were designed to keep young people going and working in a proper way. Training them and making them better. What was the Conservation Corps doing? It was causing young people to interact with the soldiers to gain discipline and build them in a certain work ethic that would be better for this country in the long

Finance Bill
[SEN. SHABAZZ]

Tuesday, October 31, 2000

run. They removed that and I think the Minister of National Security is probably trying to get it back in some way, but they do not seem to have the proper finances to have it running in the proper manner. The Conservation Corps was very vital and important for young people in Trinidad and Tobago.

They closed the youth camps. The only thing happening at the youth camp in Chaguaramas right now is that they have a rehabilitation centre there. What is happening with the youth camps? Do you know how many youths were taken off the streets because of the youth camps? Do you know how many youths were trained in some disciplined, organized way because of the youth camps? Today there are no real youth camps running, particularly on this end of Trinidad and Tobago. El Dorado Youth Camp, Chaguaramas Youth Camp, Praesto Praesto and most of the other youth camps have been closed and that was training for young people. That is where they learned to sew, and do a number of other things.

Sen. Kuei Tung: To go where?

Sen. M. Shabazz: You asked to go where, hon. Minister of Finance. They would have followed in your footsteps and gone into their own business doing things to develop themselves. I would explain that. It is a vital thing and I would make the point why young people have to be taught to get into their own business now, and I would explain that as we go along. What was the on-the-job training about? It was about young people going to jobs, going to schools, some of them were being taught as young teachers how to teach people. That was stopped. Even if you asked to go where, at least you were developing their minds and training them to have the benefits of the elders and the trained people in the community at least to programme them to be better. You are not doing that and the position is, they have gone back to the streets and not doing anything at all so you are doing worse. If you are not training people in skills and you are talking about tertiary and secondary education and you want everybody to be educated like some people who are educated with book sense, but do not have any common sense, or any sense to understand what is happening, but they are bright, they have eight and ten degrees and they are training this whole society to go there. Just now when we want to build a chair there will be nobody to build it the way they are trying to take the society. When we want to fix a car, there may be nobody to do it. We are saying yes, educate people, but train those who do not have the necessary ability to get doctorates and BA and MA, to do other things to help develop the society.

Mr. President, there are calypsonians in Trinidad who are making more money than everybody on this side. Dwight Yorke is making more money than this whole Parliament and he has no degree. We have musicians, pannists, Boogsie Sharpe and all these people making real money and they have no degrees and they probably never had secondary education, so people must be trained in other skills, they must be trained to do other things. This on-the-job training was geared to do that.

Sen. S. John: I want to remind the Senator that Dwight Yorke went to Signal Hill Secondary School and he has his A' levels, so it is wrong to say that he did not have any subjects.

Sen. M. Shabazz: Red herrings!

Sen. S. John: It is not red herrings because the record will go out that you are saying that one of our sporting icons... *[Interruption]*

Mr. President: Please, I have permitted him to speak, let him speak.

Sen. S. John: At this time in our history, for you to go on record to say that Dwight Yorke does not have papers is wrong.

Sen. M. Shabazz: Mr. President, I want it to go on record again that I said Dwight Yorke has no PhD, no doctorate, but earns more than the whole Parliament, this is where I am going on record, and even if I change, I take the role of "all yuh" AG. Mr. President, Dwight Yorke has no PhD and we have a number of national footballers, and I made the point of the calypsonians some of them are educated but do not have any degrees and are doing well. We have Government Ministers who do not have degrees and are doing well. We know them.

Mr. President, the Geriatric Adolescent Programme (GAP) was a means of having young people interact with the elders, getting the benefit and wisdom of them and training them in such a way that they could be wiser and better people in the development of our nation. It was a way of getting the elder people to have the younger people there to use their strength and energy so that they could have a bonding with the youths and elder people, probably closing what we call the generation gap and training them.

What do we see now? They have now set up an apprentice allowance for six months after they have taken it away from all the other projects, so we feel this is just set up to come back to a programme. Mr. President, I beg your permission and I will make the point very clear. What do we see happening at this time?

Finance Bill
[SEN. SHABAZZ]

Tuesday, October 31, 2000

Where we realize it is beneficial for people to train, what we have found is that most of the young people in this country really had to look forward to these Government-type programmes to be trained. Why? Because this apprenticeship programme would call for you to go into private businesses. Many young people who were trained under these programmes do not have the benefit of people like themselves who run their private business in Trinidad and Tobago. Let me develop that point, and I wish you would permit me. Here we have a Minister on that side saying that we have a two-caste society and I am quoting the *Daily Express* of October 24, 2000 on page 5.

“We have a two-caste society which is the result of the PNM education. The Syrians, French Creoles and Indians went into one caste and moved in one direction, while the others went to jail or became policemen.”

Mr. President, I am proud that I was a policeman. In the police service there are very brilliant people but there was a problem and I could tell you why I went into the police service and why a number of people had to go into the police service, and why these government jobs like on-the-job training are important.

The reason they are important is that when we talk about the Syrians the French Creoles and the Indians, we see that they own many of the businesses and their children will go into these programmes to be trained. The other jobs which are the people he said became policemen or went to jail, they really have to depend on the other programmes because they or the people who look like them are not so business oriented, it is as clear as that.

3.50 p.m.

The Government has to set up proper networks in some way to take care of these people, and unless we train them to develop themselves and to go into their own businesses, we would have other problems. But I would explain the situation.

Mr. President, when I left school, and I daresay, with my four passes, there were other brothers like me who left school with five passes. Do you know what we saw? People who did less than us, by far, were going to the tobacco companies, to the private firms. But then we realized that they were the children or the friends of the people who owned the businesses. Where did we have to go? The police, the army, the soldiers, or try to get into our own business and the very banks which we were going to at the time were not lending us money. So this is why it has to be like that.

When a Minister from that side who, at the time, was the Minister of National Security, could get up and make a statement like this, he does not understand what is happening in our country. He is educated, he has all his degrees but he is not bright. It is good to hear the hon. Minister of National Security distance himself from that statement.

Mr. President: Hon. Senator, you are veering away and I ask you to return to the Bill.

Sen. M. Shabazz: Mr. President, the whole question of why jobs are difficult to get and we want it to go on record. This is why in Trinidad and Tobago we need a Government that understands the working and the feelings of the people of Trinidad and Tobago. [*Desk thumping*] That is the Government that we are going to have coming up after the next election, whenever it is called. We do not care. [*Desk thumping*] Mr. President, that is the point I wanted to make.

I want to make this point that this apprenticeship training course, although it is good; it is also good if it is coupled with the other programmes that the People's National Movement and the NAR, to some extent, had put in place for the people of the East/West Corridor of Trinidad and Tobago and all over, who do not have businesses, who do not have space to plant land to be able to develop themselves and give themselves room to develop. That is what is needed if you are going to put these programmes into place.

These things must be linked at times, when you look at the crime situation that is happening, with a number of other things in this country. After having developed those two points as I have done—we hear them talk about the education system which continues to develop because you have gotten the best foundation upon which to build. In no other country there is no other Government coming after another one could have gotten a foundation like the one that we left for you all. They have not done so well, they have created a lot of confusion, but we will correct that coming in the next year.

After having said all of that I would really just like to say—I am ending here, Mr. President—that I hope I do not have to come back to this Parliament for this month again. I do not know what will happen but I feel that we are just wasting time in a sort of a way because we are only hustling to bring these people political agenda for them to go on the hustings to say that they have done this and that.

Mr. President, having said that, I would like to say thanks for giving me the opportunity to use these few words and really say, farewell to them, do well, but you have not done so well. Farewell!

Sen. Dr. Eric St. Cyr: Mr. President, I would like to make a few comments on the Finance Act, 2000. The first comment I want to make is that I support Sen. Prof. Spence's comment that the instrument setting up the Green Fund Agency, being a part of this Bill in which Senators do not have a vote, has really sort of disenfranchised us from taking part in setting up that agency. On the environmental levy now called the Green Fund levy, the very last statement in Clause 71 which says that:

"The profits of the Agency shall be exempt from all taxes."

I am surprised that that phrase is used. I would have thought that this would have been a non-profit Agency.

Generally, though, I am concerned about the accountability of this proposal. In fact, when I read Clause 64 that grants are to be made to individuals and community groups, the comment that came to me was Robin Hood. It did concern me. More seriously, Sir, it seems to me that we could have done this far more easily by raising the business levy from .25 per cent to .3 per cent and simply transferring one-third of what we collect to this fund.

The second area I would like to comment on briefly is the Apprenticeship Allowance Rules and my first comment there is that periods not extending six months seemed rather short as a period of apprenticeship to me, except that one could have several of these six-month stints. If not, I wonder how effective this would be as an apprenticeship route. Also, it would seem to me that where we restrict the total amount granted to 5 per cent of the total wages, that we would effectively have biased this proposal against the smaller firms, where five per cent of their wage Bill would be quite a small part of it. Perhaps that is where we would get a number of people apprenticed especially to skilled small businessmen. So that is my second comment on the Apprenticeship Allowance Rules.

My third comment I want to make on the proposal that persons who receive all their income in the form of emoluments from employment, would no longer be required to file a tax return. I could see a number of difficulties there. I could see we would be losing a great deal of information. We would probably be setting up a method by which people could escape the tax net. The proposal of Sen. Philip Marshall is good and I support that. But I would ask: Would employers who would now be responsible for administering their income tax to employees be free continuously to adjust deductions upwards and downwards and even to correct in one year for errors of a previous year?

4.00 p.m.

If the answer is no, then I could see the accuracy in the administration of the income tax law being lost, because where there are errors at the end of the year there would be no way to correct them.

Finally, Sir, the point I would like to debate somewhat is the proposal to grant a waiver on interest payments to delinquent taxpayers. I think this is wrong. I know that the thought is that one would clean up the mess as it exists and start with—we will use a nice, big phrase—a *tabula rasa*, a clean slate. I think it is wrong because one will never, in the real world, have a clean slate. So all that would happen is—I am taking it, Sir, from hints already given that you may not be the finance minister in the future years—someone will be waiting for the next finance minister of whichever complexion—and I do not mean physically—to anticipate another set of waivers, because there are people who just do not obey the law.

One of the classics I was trying to remember, an act after the restoration of the British monarchy, an act of something of oblivion, and the joke there is that the act referred to forgiveness for enemies and forgetfulness for our friends; in other words, people who have complied with the tax laws, have paid the interest on their overdue taxes and they will get no refund. People who have not complied are being allowed to get away. That, however, is not my big point. My big point here is that, as it stands, this is really a shot in the dark. In other words, short of knowing what the empirical information is about delinquent taxpayers, we are in no way able to evaluate how much we are giving away, the distribution by size of the tax breaks we are giving away and who in particular are the individuals to whom, unknowingly or knowingly, a tax break such as this could be given.

So, I would hope, Sir, that if it was possible to get some detailed empirical information about the nature of this problem, we would be in a far better position to see the extent to which we have a problem and, really, whether we are doing something with which, in conscience, after the fact, we would not be able to live, or whether this is a reasonable and sensible thing to do. There is in my understanding—and I speak here out of turn in the presence of three distinguished accountants, but let me say coming from the discipline of economics—something referred to as trading on the other person's money.

This, effectively, is what I do if I do not pay my taxes, having taken a loan on the bank and paid interest on that, but I continued to run my business on taxes which should have been paid in, and when I should pay the interest penalty, which

is what the penalty is put there for, to stop that behaviour, I am now given the interest free. So, in fact, I have been allowed to do what I understand, in a properly run business setting, is contrary to proper practice. I have been allowed to trade on the treasury resources. So, Mr. President, I do not think that this is a good measure. I have great difficulty with it, even while conceding that it could make sense to clean up the books and to leave for the next distinguished minister of finance something looking better. Since, you see, I do not think that anybody anywhere will ever get it perfectly right, I do not think we should go in that direction.

I have one other question I would like to ask where we spoke about an art dealer—giving an assessment. My question here was, what, for this law, is the proper definition of an art gallery? Is there going to be a list of people who would certify, or could anyone say that, “I am an art gallery”? With those remarks, I thank you, Sir. [*Desk thumping*]

Sen. Martin Daly: Mr. President, I would like to support what was said by my colleague, Sen. Dr. St. Cyr, on the waiver. I have repeatedly made the point, and as we continue to suffer here would make the point, that we are not law enforcement efficient in Trinidad and Tobago. We abolished the motor vehicle tax because we could not collect it. Why could we not collect it? Because the people who had to collect it were too lazy to stand in the road and stop the cars that did not have the stickers. We brought in motor vehicle inspection. We gave a long period of time in which to have vehicles inspected, allegedly for public safety. We have just extended the time. We brought in a new Companies Act that required companies to be continued within a certain period. We extended the time, I think, twice. So this amnesty is going to be just another catalogue of attempts to make compliance with law easier, and it is just the first loosening of what I foresee is going to be a complete breakdown in the collection of income taxes.

I am very, very pessimistic about what is proposed here philosophically and how it is going to work. So what we are doing now is, just as we stopped collecting motor vehicle taxes because it was too hard—I cannot imagine why, because one had to display a badge and so forth—and just as soon as we loosened all of these various things that people have to do in a well ordered society, we are now saying to people, “Well, it does not matter that you have not paid your tax. We will let you off for a while, and then maybe we will let you off for a little longer”, and so it will go on. Now we are combining with that what I consider the very, very wrong move in doing away with individuals having to file returns.

I expressed my misgivings in the budget and I had hoped that—well, I suppose Sen. Kuei Tung could not have been sure we were coming here today any more than the rest of us, but I had hoped that some of the points I raised in the budget would have been taken up, if not in the legislation in the presentation. I pointed out in the budget, Mr. President—I am a bit better prepared now—that in our tax system, as well as in other measures that we have put in place to combat phantom transactions, and in particular money laundering, the tax file number has statutory status. [*Desk thumping*] I do not see at the moment, if we abolish the need for individuals to file returns, what measures—maybe it can be done administratively—we are going to put in place to make sure that the persons for whom the employer has to account are the same persons who have these file numbers.

So not only do I support Sen. Marshall's suggestion that if this system is to work the employers' TD4 will have to be countersigned by the employee to place some responsibility on him—I mean after all, one cannot go through life saying it is somebody else's duty to be truthful on one's behalf. That is just completely, philosophically wrong. So not only do I support Sen. Marshall's suggestion that the TD4 should be amended so that the employee signs to the veracity of what is being returned on his behalf, I think it is essential that that TD4, which it does not do now, should contain a—it should expressly stipulate what is the file number of the employee who is being accounted for, otherwise we are going to have a complete disconnect in the records of the Board of Inland Revenue. I think that is very important if this system is to be worked.

First of all, philosophically we ought not to be telling people that other people must be responsible for the veracity in the performance of their obligations with the state. Secondly, we are going to have a disconnect in the records of the Board of Inland Revenue between the persons who are being accounted for by the employer and their file numbers. Mr. President, I think section 76A is very important. We are amending section 76, and 76A makes it a requirement that a person who makes an application for any permit, permission, licence, authority, other document by any government department, public authority including a local authority, public corporation or other state agency or the Central Bank may be required to furnish the person processing the application or issuing the document with the file number.

Now, if this disconnect which I predict takes place, the value of this section is going to be undermined and I always understood the value of this to be, and I always thought it was a very good move, that one could not do business, in the

Finance Bill
[SEN. DALY]

Tuesday, October 31, 2000

broad sense of the word, one could not conduct one's affairs unless one actually really existed in the records of the Board of Inland Revenue. So the most stubborn, non-compliant taxpayer would, at some stage, need a passport or a certified copy of ownership or an ID card or—well, I think they give Priority Bus Route passes on a different basis—would have to really exist in the records of the Board of Inland Revenue.

That not only forced people to “fess up” and become part of the system, it also meant that one could not have phantom people—I stay away from the term “padded people”—doing transactions. Indeed, as I pointed out in the budget debate, when one is forming a company, one has to produce evidence that one has complied with one's obligation to file, the promoters have to produce evidence that they have complied with their obligations and filed their income tax returns for a number of years preceding. So that safeguard now is going to go, so we are going to get phantom promoters of companies; just names that do not exist in the records of the Board of Inland Revenue. So I am suggesting if it has to be done administratively, at the barest minimum, the TD4 form must have a declaration to be signed by the employee and must contain a reference of his file number.

I took the trouble to check it, Mr. President. The TD4 form—I cannot speak for other Senators—that we get from the Parliament Department has our file numbers on it. The TD4 form I get in respect of company directorships, which is an office, does not have a file number on it. I think this is extremely important. This is going to lead to less compliance and not more compliance unless we put these administrative measures in place. Philosophically, and as a person who lives in the real world, I simply do not accept that freeing up the Inland Revenue from having to take care of the pink forms is going to make them able to collect more taxes.

4.15 p.m.

Mr. President, let me make a proposition to the Government. Leave the civil servants with the pink forms, give me the tyre shops, the food vendors—whether kerbside or undercover—and the hardware stores. Give me that. Give me 10 per cent of what I collect and leave the public servants with the pink forms. [*Laughter*] Because all one has to do is sit on the pavement outside a tyre shop and count how many persons go in and out of there all day. Those are the people who are not complying, not the people who are already in the system, and similarly the food vendors.

Mr. President, it is not now. I am sure you have been to rural shops and you will be familiar with many of the things that go on there, and you put one in the register and one under the counter. Those are the people who are not complying, and likewise in relation to hardware deliveries. Those are the people who are not complying, not the people who are already in the system. So for the Inland Revenue to bramble the Minister and tell him, “if we do not have to take care of the pink forms we will collect more money”, that is just rubbish. The Inland Revenue could have been collecting money all these years.

I mean, I am tempted to identify which tyre shop there, which kerbside vendor there, and which hardware supplier there I will start with. So, it is a complete bramble to suggest that by freeing up the Inland Revenue from the pink forms, they are going to collect more money. The Inland Revenue will never collect more money unless they go after the people who are the obvious dodgers, not the people who are already in the system. When deferred annuities and pension-savers were a serious form of saving in this country—which this Government made a complete disincentive of—in those years, every single year when you filed a tax return, this is what the Inland Revenue would do. Never mind about the pink form; this is the stupidity they will do. You had to register the deferred annuity or pension-saver with the Inland Revenue, so your registration of it was already in the records, and in any year in which you did not give them a copy of the same registration that they already had in the records, they will ask you for another one. That is what their time is taken up doing.

Mr. President, every single time someone in the Inland Revenue asks for another copy of what they already have, I would have sent them to sit in the hot sun outside a tyre shop and say “Forget he, go there and collect some money.” So this whole thing is completely riddled with a complete lack of understanding of Trinidad and Tobago.

I gave the example of the million-dollar religious building that was advertised, broadcasted and boasted about in the newspaper. I bet my “bottom dollar” that no one in the Inland Revenue dared to go under “DC” and see what “DC’s” tax return was—if there was one at all—and how come he had an after tax system to build a temple for \$1 million.

Mr. President, I am already tired of being here. I am already tired of the bramble that is going on with the parliamentary agenda and I do not feel to take on this bramble that underlies this idea that getting rid of the pink form is going to help the Inland Revenue collect more money. It is going to do absolutely no such thing, unless they focus on the people who really dodge the tax system. If the

Finance Bill
[SEN. DALY]

Tuesday, October 31, 2000

Government is going to disconnect all of this or not have it properly connected to the Inland Revenue file numbers, the Government is going to make things worse, not better.

I always ask myself what became of the tyrants who were in charge of the EC-1 and EC-0 forms. When the Government abolished that, what did they find for them to do? Did they find something constructive? Did they become managers of our foreign reserves? What did they find for them to do? I bet nothing! I bet, you know, they just expanded other departments in order to include them.

Mr. President, I think this is quite wrong. I am sounding a warning that it is going to make tax compliance less, not better. If it is this is going to free up the Inland Revenue just to go after people who are already paying, then they have simply brambled the Minister of Finance, Planning and Development; they have simply brambled him.

One only has to see how many times people travel. There are so many obvious indications of disposable income, they are breathtaking! I mean, I am generous to the Government. I am a good negotiator. It is only because of the Government that I am letting them off by only taking the hardware stores, the food vendors and the tyre shops. I could think of others that I could take.

So unless the Inland Revenue now is going to get out of the office in the hot sun—come out the office where they play with the pink forms and go in the hot sun—they are not collecting anymore money as a result of getting rid of the pink forms, and we are in very great danger of causing a serious disconnect in the system. So I do not accept this philosophically; I do not accept it as a practical matter and I think it is very dangerous to give people the idea that complying with the Inland Revenue laws is really a bit of a joke and they need not really bother. They do not have to fill in a form; they do not have to acknowledge the veracity of the return that is being made on their behalf. So I have a serious problem with that.

Mr. President, you see, when the Government continues to say that it is reforming this, it is reforming that and it is modernizing this, I am going to give a practical example of a revenue change which the Government has introduced which is simply not going to work. It is a practicable example of the disconnect about which we speak. I have remained stoically silent about the state of the Land and Company Registry since its removal. I understand people do not like change, I understand all of these things. I understand that there is room for political exploitation.

Mr. President, here is a revenue change which is a practical example of disconnect. In the old days when you registered a deed—and a deed might be a bill of sale, a power of attorney, a deed pole changing your name; it might be a land transaction—you got a receipt from the Government that had on it the number and the name of the transaction and it was manually produced. The safeguard in this system was that if somebody made a mistake with the number, you had the name as a cross-check and if you made a mistake with the name, you had the number as a cross-check, and the numbers were quite simple. They started at 100 or 200 and they went on sequentially, and sequential numbering of deeds is crucial to the system of priorities which I would not bore everybody with today.

Mr. President, here now is the new revenue system. I am told by my clerk that he goes to the registry, they place on the deed something that he describes as what you get in a drug store or a grocery—the thing with the bars. So they put “the things with the bars” on the deed, so that thereafter the machine could read “the thing with the bars”. The trouble is, “the thing with the bars”—I have to take a very deep breath—was given the number “B”—well it could be a “5” or an “S” we are not sure. We think it is a “B” as for bill of sale. Of course, there have been other interpretations. If it is “S”, what “BS” stands for. [*Laughter*] B5 or S2—Mr. President, forgive me—000000. So we got a B520000003502—what we think is a “P”; it could be a “D”—001. So here it goes again. [*Laughter*] Mr. President, this particular transaction—in this new and modernized revenue collection system—written out by hand is B5200000032520P001 and, of course, no name of the transaction.

Mr. President, I think you have studied me well over the last five years to know what I am going to suggest next. In the days when cricket was important, if Lara hits a “four” and the fellow looks up, the “two” might become a “three.” Or a “chick” passes and he looks up at that, and he comments to the other one who is writing it down, about the “chick”, both of them will write down “three” for “four”. So this whole thing will be wrong. Now we no longer have the cross-reference of the name. My point is, we say we have computerized, but we have changed to a manual system that is worse than the manual system we had before.

4.25 p.m.

This has to do with the collection of revenue and this is a perfect example of disconnect between number and name which I was trying to describe when I was discussing the fact that section 76(a) of the Income Tax Ordinance gives the revenue file number a particular status. This is the disconnect about which I am talking. I am told by my clerk that when the functionary is writing out this

Finance Bill
[SEN. DALY]

Tuesday, October 31, 2000

number, if he is particularly diligent, he tries to see what number the “fella” is writing out. If the “fella” is left-handed, he cannot see it at all and anyway he is reading it upside down. The result of the computerization of the Land Registry in Trinidad and Tobago in a modern term—BS200000352502D000—to query whether the “S” is a “5” and the “P” is a “D”.

This is what we have done. This is the modernization that has taken place in the registry. That is what we have gained as a result of modernization and saying we are reforming something where we have taken a traditional method, which has worked, we have computerized it but we have continued to link it manually, but we have removed all cross reference. Well, I am sure there are others in the Chamber who will be wondering how we are going to explain this to our professional indemnity insurers when we have to explain how the system works, but that is another matter.

Mr. President, there is a very real danger in what we are doing here if it is not properly thought out, if the cross referencing of the information is not maintained and if we do not decide what we are doing about the insistence of file numbers as part of doing business in the broad sense of the word. I am very disturbed by this. It is sending all the wrong signals and the recipe for confusion, as demonstrated by BS200000032502D001 which is really quite alarming. I did bring some other examples. These are just two transactions that my—they are dying of frustration. Then he brought me JS20000020680D001—all written out in long hand, Mr. President, and we have to take it on trust that these are really the numbers that will be read by the computer when they swipe the bar. There are many things I do not know.

Sen. Montano: How do you know?

Sen. M. Daly: You do not know because there are absolutely no names there and the prospects for mistakes are absolutely enormous, and I foresee the day when the records of the Board of Inland Revenue will become exactly the same if we do not tie the individuals who are now making returns to their file numbers and to the veracity of what the employer is saying on their behalf. It would be a perfect excuse always to say, “I did not tell the employer that was the deduction he was supposed to make. He got it wrong. He was not listening to me. He was in a bad mood. He ‘steupsed’ at me when I was trying to explain to him what my deduction should be.” It is a gross mistake and it needs to be rethought, at least, administratively.

With regard to the other things in this Bill, I am approaching it in this way. Most of them are completely inconsistent with the repeated suggestion of this Government and its predecessor that we must simplify our tax laws so we are bringing back allowances. I have no problem with the particular allowances, but we are bringing in an allowance for art; we are bringing some kind of levy for the green fund; we are bringing back all these little bits and pieces, which our global masters have told us we are not supposed to have. I understand what we are doing here. I am not going to debate the structure of the green fund and I am not going to debate all these things because I know they are just put here as sound bites for the season in which we are and by next year, the green fund will be removed because it would not be important to be green anymore; there would not be a nadir right factor out there and by next year, the capital allowance would not be seen to have worked because we have thought through this system of how we are defining an art gallery and we have not thought through the money laundering implications indicated by Sen. Montano.

These things are going to last as long as the “Red House fire”, because they are only put in there as sound bites for the season in which we are and I know that Sen. Kuei Tung and his technocrats are far too intelligent to fall for any of this but, given the season, they have to put these things in and they are not going to last very long so I would urge my colleagues, really, to view them as the “Red House fire”, not very long lasting and with the same speed as which they have brought in this allowance for art, they are going to be taking it back out because of the licks they are going to take. They do not live in the real world.

We know they do not read the papers because they do not like the media but if you pick up the newspaper, every single day, there is a new art show and a new artist—every single day. I am amazed. I do not have as much time—it is largely because Sen. Wade Mark keeps me here two nights a week—to go round to the art galleries so I enjoy all this art vicariously. Every day you pick up the newspaper, there are two new artists. The licks they are going to take on that is going to make the licks they took on the covenants for relatives as small licks, because these paintings are already being sold. I mean, some of the better artists are already being sold for serious sums of money, therefore, the licks they will take on this.

I end by reminding the hapless Minister because he is on his way out, therefore, he is not going to be responsible for the chaos that is going to follow. I always remember many years ago, in the bad old days of the PNM negative list which was presided over by someone whom I think has changed parties, if you

Finance Bill
[SEN. DALY]

Tuesday, October 31, 2000

had to bring anything into Trinidad and Tobago with all the high tariffs and so forth, you had to make sure that your invoice did not exceed a certain figure because I think in those days, you not only had to pay duty in cash but you had to give the right money. If they had to give you a dollar change, before we retrained our public servants, they would “steups”, “Yuh eh have the right change. Yuh have to leave the TV dey.” Then, you had to go and ask the customs man if it was all right to go outside by your “tanty” to see if she have change to come back in.

If you were clearing dogs, as I did as a breeder, you spent the whole night driving between that side of Piarco to the other side of Piarco while the bureaucrats jerked you around. That was the bad old days of the PNM negative list.

I always remember, Mr. President, when you were away—I know it has become very fashionable to confess to crimes in the Parliament. Anyway, in the bad old days when you were away and the local razor blades cutting up your face, so you bought two or three razor blades and you stuck that down somewhere in the bags—one did that. I mean, I am not making any specific confession. Do not talk about the light bulbs Karco and Sunlight used to make. People are so traumatized by the negative list, they still buy light bulbs when they go away. They still cannot really believe the light bulb is not working. That is how we used to live and you got, what? US \$240 to travel. That is why I asked what became of the people who were in charge of the EC1 and the EC0 forms.

Anyway, what I am leading up to is, just how in the first boom, the Barbadians used to call us the “Carabs” because we used to go there and throw down the money and buy the thing and show off. They called us “Carabs”. Trinidad and Tobago became so well known for all of its eccentricities, I brought—I should say I was present. I do not want to join the fashion of confessing to crimes even as an accessory. I was present when a television set because “dem” things they were producing in Sea Lots there when the “Doc” said you had to have a TV in every home, they used to go poof a month after you bought them.

I remember being present when a TV set was being bought, in a tax favourable island, where it was the right place to go—people used to go all in Panama in the free-zone to buy things. I have to disclose it was the Virgin Islands because they have a rather rich accent which is a cross, if you have a sharp ear, somewhere between Jamaican, Montserratian and the foothills of Barbados. It is a very rich accent which I would not attempt to imitate. I had to tell the television dealer

there—it is slipping out again—where I was taking this television set. He said, “Oh. You taking it to Trinidad so I have to give you a boo-boo slip.” He volunteered that because he had to give you a “boo-boo” slip. He could not say the TV really cost “X” because when you came to the customs they would lace you with duty.

I have never forgotten that Trinidad and Tobago became famous for “boo-boo” slips because it was so well known that our laws were so ridiculous that everybody cheated them, that a man in the Virgin Islands—people used to ask, “Where is Trinidad?” Now, they are not asking you, “Where is Trinidad?” They are telling you how to evade your stupid laws. I really do not want the TD4 to become a “boo-boo” slip. That is why I told this long and boring story. I do not want the TD4 to become a “boo-boo” slip. That is what we are in danger of allowing to happen.

Finally, because I know you have been very indulgent, I could not help wondering why Sen. Marshall is always so conservative, with a small “c”, of course. When he was talking about the subtle difference between tax avoidance and tax evasion, one being the right thing and one being the not so right thing—How did he describe it? Responsible and less responsible. That is what I mean by “conservative”. Oh! The day I could have that temperament, Mr. President. When he talked about responsible and less responsible and he categorized tax avoidance as responsible and tax evasion as less responsible. I just thought, hypothetically, if he was a political scientist, would he categorize election avoidance and election evasion? I just wondered.

Thank you, Mr. President. [*Laughter*]

Mr. President: We will break for tea at this stage. This sitting is now suspended until 5.10 p.m.

4.37 p.m.: *Sitting suspended.*

5.13 p.m.: *Sitting resumed.*

Mr. President: The debate on the Finance Bill continues, Sen. Jagmohan.

Sen. Mahadeo Jagmohan: What!

Sen. Mark: Jaggie, like “dey” leave “yuh” on “yuh” own, boy.

Sen. M. Jagmohan: Mr. President, and hon. Senators, we were each appointed to the Senate on our individual abilities and knowledge. [*Desk thumping*] Mr. President, this could be my last contribution in this Senate

Finance Bill
[SEN. JAGMOHAN]

Tuesday, October 31, 2000

[*Laughter*] in view of prevailing circumstances, and the point in time we are at. An election date is due anytime, Sir, and I do not wish to talk much about that. But, we should heed the many statements that are being made.

Mr. President, I wish to refer to clause 64 of the Bill which states:

“The purposes of the Green Fund are—

- (a) to enable grants to be made to individuals, community groups and organisations primarily engaged in activities related to the remediation, reforestation and conservation of the environment;”

This subsection is very loosely put here. I do not know whether the draftspeople thought seriously about it, or who instructed them in this regard. My debate here, Sir, is that the Government is talking about channelling funds to individuals, and community groups that are not well organized to engage in activities related to the remediation, reforestation and conservation of the environment, that is a dangerous thing. Too many individuals and small groups in the community—in order to project themselves and their small organizations that are of not many consequences—are doing tremendous damage to the environment. This should come straight under the Ministry of Agriculture, Land and Marine Resources. I will have something to say about the Green Fund in a short while.

I am urging the Government, through the Minister of Finance, Planning and Development, to strike out (b) which states:

- “(b) to undertake or do all such things as are incidental or conducive to the attainment of the purpose referred to at paragraph (a)”

Again, this is an interpretation that can be applied by any individual or group to do such things as are incidental. People will take this kind of legislation into account and do everything that they should not do. This is a licence to do illegal things. Mr. President, I urge that clause 64 be deleted in order to protect the integrity of this Government or the next government, it does not matter. When this is done, the integrity of the Government is protected.

Clause 66(1) of the Bill, which was spoken of by so many others, states:

“There is hereby established a body corporate to be known as the Green Fund Agency hereinafter called ‘the Agency’ which shall manage the Green Fund.”

I am debating that the Ministry of Agriculture, Land and Marine Resources has sufficient machinery through its various sections and divisions which have

competent public servants who can carry out this programme. I say this with all the humility at my disposal: the politicians of the Government got carried away and their focus is on who are their friends, who they know well, or who are their supporters who they can place on this agency to do whatever they want. I am arguing that the public servants, and even the daily-paid workers, who fall under the Ministry of Agriculture, Land and Marine Resources are competent.

We have examples where they have done endless work in this area, and they are the people who should be doing this. I cannot see any new agency coming in. Who will advise the agency? Who will introduce them to the whole system? It would be the public servants, and they would be standing on the sideline and allowing new people who have no experience, no expertise, or expertise that will not be superior to those in the Ministry of Agriculture, Land and Marine Resources.

5.20 p.m.

I am talking about the career civil servants in the Ministry of Agriculture. That is my argument here. On several Bills I have raised this point, but I suppose the Government is going with their plan and their advisers are advising in a particular way. No organization has worked well which has couched this clause 66(2) like this:

“The Agency shall have a common seal...”

Okay, that is understandable:

“...which shall be attested by the signature of the Chairman or Secretary and kept in the custody of the Chairman or Secretary.”

This again is a loose managerial arrangement. The seal should be kept by the secretary, and it should be only put onto documents and papers in the presence of the Chairman of the Board or President of the organization. When officers attached to wherever the chairman or secretary is, could influence the chairman at one time, the secretary at another time, to do whatever, this is not the way to go. I am suggesting to the Government that secretaries are to do administrative work. Applying a seal to a document is not the job of a Chairman. A chairman is like a CEO, except some rule specifically says otherwise. The CEO does not do the secretarial work or the managerial job. Can the Government or somebody in authority look at this? On page 11, this is again repeated about the use of the seal.

I now turn, with your permission, of course, to page 12 at clause 67(6). This is a topic that could be debated from now till tomorrow but I will spend just two minutes on it. Subclause (6) reads:

Finance Bill
[SEN. JAGMOHAN]

Tuesday, October 31, 2000

“Minutes in proper form of each meeting shall be kept by the Secretary and shall be confirmed by the Chairman or the member appointed to preside over the meeting, at the next meeting.”

My understanding is organizations, groups, boards or whatever, which are led or managed by chairmen and secretaries, the secretary reads the minutes, or they are circulated in advance and considered as read at the relevant meeting, and by majority vote the minutes are either accepted, rejected or corrected and then they are confirmed by majority vote of the persons present, not necessarily by the chairman. The chairman signs, confirmed by majority vote or unanimous vote, at such and such a meeting. That is not the case here. Can the Minister of Finance look at this and see what he gets out of it?

I wish to turn, generally, to the Bill. A great deal of emphasis was placed on the apprenticeship programmes and training opportunities for young people in Trinidad and Tobago. That is merely the opportunity. But I wish to state that I read the estimates for recurrent expenditure as well as the development programmes and so on, and around ten years ago—it could be about eight years ago—the last Government put in place a novel arrangement which has turned out to be one of the most excellent arrangements, to have people wishing to become teachers be appointed as on-the-job trainees. They go to the classroom but they do not actually teach. They sit and observe what teachers do and they learn by that. They go through the process of additional lectures on Saturdays, and go through various training programmes, and they are given a small stipend—very small. The Ministry of Finance finds it convenient and expedient to spend money on all sorts of programmes, and the future of this country lies with the children and the young people, and so on.

I am proposing that the stipend for on-the-job trainees be increased forthwith because if teachers are getting an increase, civil servants are getting an increase, oil workers are getting an increase and other people are getting increases, how will these people exist, especially in terms of travelling costs and purchase of meals and provision of clothing and so on, to be able to enter classrooms and be on this on-the-job training programme? Some attention should be paid to this. I do not think the Minister would have any difficulty giving instructions for funds to be vired, to be transferred, or some sort of machinery be applied in order to pay a little increase for on-the-job trainees.

A very big matter that does not ever receive much attention in this Parliament is the churches or religious groups in this country. They go unnoticed in certain

matters. The churches work day and night behind the scenes and the real workers are not remunerated. It is voluntary work. They do it for the love of it. Government gives some kind of small grant called the ecclesiastical grant. This has not been increased for the longest while and quite often payments are delayed. This is the money that some of the churches that are not rich, some of the religious organizations—be it Hindu, Islam or Christian—use to pay travelling expenses or a stipend to priests, pundits, Imams or whatever. To the best of my knowledge, 20 years now this has not been increased. Why was no thought given to this? The planners, managers, administrators, maybe the members of the Cabinet who are Ministers, did not give this some thought? The people out there are not happy about this.

On a lighter note, Mr. President, the distinguished Sen. Dr. St. Cyr had a concern about the next Minister of Finance. I wish to assure him that the People's National Movement, under the leadership of the hon. Patrick Manning, will install a forward-looking, competent and capable Minister of Finance in the next Government. I do not know if any tax technocrat is present in the Chamber, but everyone here knows that the poorer people were much more diligent in paying their income tax and filing their tax returns. The poorer people were seen lined up at the offices of accountants and tax specialists, and so on, and even by private individuals who have the capability of filling out tax returns. I wish to state whatever the Government is doing about this tax business, we are not against tax reliefs, and so on, but the procedure is going to create problems. If a businessman who hires people and he has less worries filing tax returns, we are happy for him. He has to run his business properly so that he will be able to retain his staff and pay them properly and things like that.

I go to the next point. Hon. Minister of Finance, look in my direction for a moment. Three years ago you did it with utmost integrity and we believed you, that you were giving—I am speaking through the President—the labour federation, the national trade union centre, \$250,000 for institutional strengthening. I have looked at the documents and I have no way of recognizing whether these funds were disbursed, or whether the Minister has received instructions that this is not needed or not necessary. While a few trade union leaders might be silent on this, a number of leaders are concerned about this. The newly elected Secretary-General of the National Trade Union—

Sen. Cabrera: I thank the hon. Senator, through the President, for giving way. I would like to advise him that that matter is well in hand and secured.

Sen. M. Jagmohan: Mr. President, we, in Trinidad, are accustomed to hearing that the matter is receiving attention; it is well in hand and a resolution is imminent. We are accustomed to that kind of jargon. I am arguing that the labour movement does not have much nexus in this until the money is channelled to the National Trade Union Centre. This is a matter that concerns every single taxpayer in the country, and every worker in the country.

I sympathize with Comrade Senator Cabrera. It took three years to disburse \$250,000, when just like that, on the stroke of a pen, \$10 million, \$15 million, \$30 million, \$100 million is disbursed. Not only am I talking about it, I am urging the Minister. Maybe the people who he talks to closely—because I heard some outpourings here today, that he is not returning here. I do not know why people should say that. I feel he is returning, but on this side of the House.

I am now turning to another point and I do not have long before taking my seat. The Cipriani College of Labour and Co-operative Studies is near to my heart. I was present in a labour delegation in 1962 when a request was made to the then Prime Minister to establish a labour college. This took place in January, 1962 at the Whitehall, which is once more a Prime Minister's office. But I do not know what goes on there; I have never been there since then. The Cipriani College of Labour and Co-operative Studies is one of the best gifts to the working class of Trinidad and Tobago by the People's National Movement Government. [*Desk thumping*] A number of competent people are engaged there as lecturers and teachers, and loyal and dedicated workers seek to go there for training and enlightenment, and they do receive training. But I do not know what the Minister of Labour is doing out there.

We, of the People's National Movement, would like to see that institution prosper, advance and expand. But maybe because the PNM raised it, the expansion of that institution is being kept under cover. This is the fifth year I have appealed in budget debates, that because of the structure of our country and the transport system in our country, a branch of the Cipriani Labour College should be established in the city of San Fernando and that it should be run along similar lines.

5.35 p.m.

This is the fifth year I have appealed in the budget debate that, because of the structure and the transport system in our country, a branch of the Cipriani Labour College should be established in the city of San Fernando. The college in San Fernando should run on similar lines as the existing one. There is no need for a

new building, one of the Government institutions could be used: the OWTU has a massive building; the NUGFW has good facilities; the Public Services Association has facilities in San Fernando; TTUTA has facilities in San Fernando. The Cipriani Labour College could operate a branch there, but the Government is turning a blind eye.

Sen. John: Through you, Mr. President, I do not know if the hon. Senator could give us the assurance that if he goes to the OWTU office that they would not kick him out as they did to Sen. Cabrera. *[Laughter]*

Sen. M. Jagmohan: Mr. President, I have heard what the Senator had to say but I am in no position to act on behalf of the Oilfield Workers' Trade Union. All I can say is, I have great admiration for the Oilfield Workers' Trade Union but if they are guilty of a misdemeanor or a wrongdoing, that is another matter. If Sen. Cabrera was badly treated, I may resort to the thinking or the philosophy of Hinduism: "As you sow, so shall you reap". *[Desk thumping]* Each individual is responsible for his karma or his own doings. *[Desk thumping]* We cannot negotiate the results of our karma, that is natural and automatic, and it comes.

It is my hope that there will be a branch of the Cipriani Labour College in San Fernando with a staff of lecturers, offices and other facilities. As I go a little further, Sir, people who live, for example, in County St. George, or in the city of Port of Spain and its environs, do not experience much hardship to get around in the city of Port of Spain. If, however, someone lives in Point Fortin—I am not going down to Cedros—Palo Seco, Moruga, Rio Claro, or Sangre Grande for that matter, it is a tall order, it is strenuous and it is expensive to come to Port of Spain on major matters.

I wonder if all the Cabinet Ministers present here have ever given thought—particularly the Leader of Government Business, who is a trade unionist, a gentleman who should be thinking about this—to have the Industrial Court sit in San Fernando when there are southern matters. So that witnesses, workers, technicians and attorneys will not have to do extensive travelling on the bogus highways that we have now, which are clogged with traffic. *[Interruption]*

Sen. Mark: Mr. President, the Senator would agree with me that we could not have done everything in one term.

Sen. Mohammed: You got a term and a piece. *[Laughter]*

Sen. M. Jagmohan: Mr. President, prior to my standing to address this honourable Senate there were not many questions. The faces of many people

Finance Bill
[SEN. JAGMOHAN]

Tuesday, October 31, 2000

appeared to be glum and surly. I do not know what caused it, however, a new kind of enthusiasm has now permeated this Chamber, maybe, something is responsible for it. *[Laughter] [Desk thumping]* It is my hope that the Leader of Government Business—I hope he has that clout in his Cabinet, they might meet once more or about twice again, two weeks. Oh no, the Ministers will remain in office until the PNM comes in with a new Government. *[Desk thumping]*

Mr. President, if high calibre judges: the Chief Justice, the Director of Public Prosecutions, the Solicitor General go to San Fernando, time after time, why not the Industrial Court judges? Some of them are southerners.

These are some of the points that I had to make and unless I made them—*[Interruption]* No, I heard a statement from one of my colleagues on my left. This finance document is a very important one. I want Senators on the Government Benches to understand, particularly, those who voted for UNC and those who are Ministers or legislators, that this document was not made possible through them alone. It was made possible through every citizen of Trinidad and Tobago who works in the system and who pays taxes.

Mr. President, the atmosphere prevailing, as to the life and existence of this honourable Senate, is one of uncertainty in the country. Whatever is to happen will happen but I wish to state that, we, of the People's National Movement, led by the distinguished honourable, outstanding son of the soil, Mr. Patrick Manning—*[Desk thumping]* wish the Senators Opposite well, but they would only have six seats on this side. There cannot be more than six. We are preparing—it is just a matter of time—to be on that side. We hope that the general elections campaign would be clean. The utmost care must be taken to maintain the dignity of the two-party system and the democratic state of Trinidad and Tobago. *[Desk thumping]* The outside world would understand that we are an enlightened people, that small-mindedness, hate, grudge, ill will and animosity would not give precedent to open-mindedness and sincerity.

I thank you very much.

Sen. Dr. Eastlyn McKenzie: Mr. President, I would be very brief. I just want to make, probably, three comments. First, I want to ask the hon. Minister of Finance whether he could look, again, at the length of time that he is giving to this apprenticeship scheme. I think the six months would be very short, if one takes into consideration what we in Tobago practise, at times, as apprenticeship. The people come from school, they have not had any experience at all, let us say, in auto mechanic and they go to an auto mechanic shop and they are taught there

from scratch. I think, therefore, it should not be confined to six months but that we should probably say, not more than a year. That would put a little latitude on it.

Secondly, could the hon. Minister of Finance say whether he gave any consideration to a suggestion I made during the budget debate, about assistance to people from rural communities in Trinidad, and Tobagonians, coming to access post-secondary education in institutions in Trinidad, that offer courses not offered in Tobago? Would this come under the Student Revolving Loan or whether there would be a sort of special grant set up? This is because many times these courses—I am not talking about the university or teachers' college or so, I am talking about young people coming to John S. Donaldson Technical and these institutions. Would that be considered a Student Revolving Loan, or would you look at it in the sense of a grant?

5.45 p.m.

Thirdly, Mr. President, I think that we need to do some public education as regards the non-filing of the pink forms. I will tell you why I am saying that, Sir. Because there are duties and responsibilities on the part of the employer, and there is a penalty, we could have overanxious employers who want to be very cautious and protective, and who may overtax employees to sort of protect themselves. I am saying two things: one, we need the Minister of Public Administration to do some public education. "If you do not file your TD1 form with your employer you stand the chance of being overtaxed. It is important that before 2001 January every employee should file his or her form". Make that a sort of compulsory public advertisement just as they do now for filing taxes before October 31.

Again, Mr. President, we have to make it very clear, if people want to file their pink form, if it will be accepted, because there are some people who believe that they cannot and should not file, and I do not get that type of interpretation. So I think we need to clarify this, that one is not compelled to file it, but if one thinks that one has been overtaxed, one can file one's pink form and seek one's refund, because in cases where people might have been overtaxed, then they need to be refunded. I think we need to do some public education and we need to do this very emphatically. We need to clarify whether people, if they choose to or if they feel compelled to, they could file their pink forms and the question of the TD1s, I think that that should be made very, very clear indeed.

Finance Bill
[SEN. DR. MCKENZIE]

Tuesday, October 31, 2000

Finally, Mr. President, I want to beg the hon. Minister of Finance and the hon. Minister of National Security, please gentlemen, for the rest of the parliamentary term, do not leave the country. Thank you very much, Sir. [*Desk thumping*]

The Minister of Finance, Planning and Development (Sen. The Hon. Brian Kuei Tung): [*Desk thumping*] I will tell you what. The next time I am leaving, I will take Minister Job with me. [*Laughter*] Mr. President, I want to thank all the Members on both sides for their contributions. I thought, as I said, that this would have been the end of a budget debate, that it was critical for us before this time that we do pass this Finance Bill in particular, and I can give you a very alarming scenario.

If we had gone into the heat of an election period and the Provisional Collection of Taxes Order had run out—and I believe the date that comes to my mind was that it was going to run out on December 27—the poor pensioners would have been in a quandary; so too the public servants. The Order that I signed would have expired and the public servants would now say, “You know, they have been paid more and now they do not know what to pay because there would have been no—” so it was very critical for us to pass this Finance Bill at this time. As I said, I used that as an example just to give Senators the sense of urgency with which we wanted to pass this Bill this afternoon.

I must apologize to Members of the Senate if they felt that we seem to be rushing this, but this certainly is something I have been working with for a few weeks now. In addition to that, I took the opportunity in this Finance Bill to tidy up some things, particularly with respect to filing of returns. One of the areas that had become a little contentious, because a lot of people—you know, one of the challenges of legislation, particularly with respect to taxes, is that you try to pass legislation that anticipates every possible set of circumstances and it never works quite well. I can give many permutations of different sets of circumstances for people—a man and woman living together, how they share the mortgage, one is on the mortgage deed, one is on the deed, and so forth. We get so many permutations that every time we think we have got the wording right another set of circumstances turn up and we say, “Well, that does not quite fit”. We hope now that we have got it fairly correct now, that we can embrace every possible set of circumstances with respect to mortgages.

Many a time, as a Minister of Finance, I can enunciate policy but I have to trust that the people who are responsible for the drafting of the laws can interpret that policy to ensure that it covers every set of circumstances that comes up. At

one time it got thrown off because at one time people thought that the mortgage interest allowance for a married couple was only \$18,000 and that was not my intent. My intent was for each of them. It meant, therefore, that a house could then be mortgaged for up to \$36,000 and be claimed for tax purposes. It kept being changed and, as I said, I am trying this one this time again to have it corrected. The policy is that we want to encourage people to own homes, it must be their first home, they must be living in it—there is a set of circumstances there to ensure that they cover the policy adequately.

I was a little surprised to hear some things this afternoon, and I will share some of my own amusing thoughts with you. I thought Prof. St. Cyr was a man of forgiveness. [Laughter] Today I heard he does not believe in amnesty. He does not believe in forgiveness. I am taking it literally. I hope Prof. St. Cyr does not take me too seriously. [Laughter] So I was taken aback and I asked, “Is this the Prof. St. Cyr that I know”? I mean, I agree, one could never correct a situation that will be perfect. I will never achieve a perfect situation. Let me start also by saying I do not think I have been brambled by the people of the Board of Inland Revenue. On the contrary, I have tried to find solutions to their problems.

The Board of Inland Revenue over the years—and I want to tell Senators that it is one of my saddest shortcomings in the last five years that I have not been able to give the Board of Inland Revenue the kind of support that I would have hoped to give them so that they could do a better job. Let me explain what I mean by that. Let us understand that employees at the Board of Inland Revenue and customs officers in my view are extremely hard-working. They do have some bad apples among them and it is the bad apples that give both the customs and the Board of Inland Revenue a bad name and a bad reputation, but let us face facts.

We cannot attract the right brains when we take an accountant, pay him \$5,000 a month and then tell him he is an auditor in the Board of Inland Revenue and that he is now responsible for collecting millions of dollars in taxes—and some of the bad eggs turn up; so too in the customs department. As I said, I make no apologies for the bad eggs, but I am certainly going to defend all of the good, hard-working, industrious people who work in both the Board of Inland Revenue and the customs department. The people in the Board of Inland Revenue have really been stretched.

I am glad that Sen. Daly came in at a very appropriate time because I want to talk to him a little about some of these accusations that he has been making. These pink forms had become too routine in the minds of the Board of Inland Revenue

and instead they focussed on the pink forms and the assessment. Now, let me explain that we are not doing away with assessments, but let me also say on the side quickly that in terms of the Board of Inland Revenue, there are people who are dropping off the Board of Inland Revenue rolls every single time. I will tell you how.

I have just increased the personal allowance, so anyone who earns less than \$25,000 if they are working, or every old-age pensioner who is earning up to \$30,000 no longer has to file a return and no longer has to pay tax. It does not make sense keeping his number on the Board of Inland Revenue rolls every day, every week, every month, every year, and not have him accountable for anything. He is just being kept there. So with one stroke of the pen I have removed a few thousand taxpayers because they dropped off the rolls, literally. So therefore the Board of Inland Revenue now has a responsibility to ensure that those who should be on the roll will now be on the roll, and they will go after all of these people that we talked about. So it is not fair to talk about “disconnect”.

Incidentally, Sen. Daly is a man whose tongue I have always admired, as you know, but he was not so glib this afternoon. [*Interruption*] [*Laughter*] I meant the gift of language. [*Laughter*] However, this afternoon I caught him in the slips. On the one hand he talked about disconnect and he talked about the people who are salaried, because only the salaried people are no longer required to file a return, and then he slipped in self-employed people who are all required to file tax returns by talking about fruit vendors, tyre shops and hardware dealers who may be self-employed. So he got me a little confused and I said, “Why is he talking about salaried employees who no longer have to file a return and then gave examples of self-employed people?” I said, “Well, you know, Sen. Daly will always talk faster than we can think”, [*Laughter*] because it is still a requirement under law that all self-employed people must file a return.

All salaried employees who have other income—and I am glad for the suggestion that Sen. Marshall has made. It is an excellent suggestion. I am also glad to say that Mrs. Ali who was sitting here has quickly latched on to it. So it has fallen on very fertile ground and I am sure it will be taken up. She said she is going to be considering that as an integral part of her administration. To be honest, I am telling you, if we can do away with some of the mundane work in the Board of Inland Revenue, they will have an opportunity to focus on some bigger matters that can help them—policy matters, administrative matters that can help them collect more revenues. However, if they have to take the same resources—and I have given a little history of how their resources have been reduced

considerably over the years because they have not been able to attract the right quality staff and so forth and not retain them.

I know certain accounting firms, the names of which I cannot call, that keep headhunting in the Board of Inland Revenue—and I am not looking at anyone, right? *[Laughter]* However, I know that as soon as I miss a good lawyer at the Board of Inland Revenue I hear that he is working in an accounting firm. Imagine that, a good lawyer who is missing, is working in an accounting firm—but, I mean, that is one of the hazards of life. The Board of Inland Revenue has really had problems trying to find and keep the right people. So I hope that I can get the job reprioritized in the sense that they would now begin to have their focus on where the big fish lie, instead of where they have always focussed, on the pink forms.

I am glad the expression “pink form” is being used. I have had people complain to me in the last five years. A nurse from Mayaro said, “I come up here and when I reach here they tell me I forgot to put in a receipt”. So they brought her all the way from Mayaro, she loses work, she loses time and she comes up here and what happens? Then I think—I may get myself in trouble for saying this but I think it is a practical example. There is a young lady who is earning \$4,000 a month—\$50,000 a year—and “they harassing her”, but what about the guy who is earning \$50,000 a month? They ignore him because, as Sen. Daly said, he may not have declared half of his income but he has filed his pink form. So I tried to get away from all this and I am trying to get to a point where the people at the lower end will no longer have to pay taxes; they pay value added tax.

Sen. Daly: Since, as always, the Minister is taking what we said very constructively, we need some assurance from the Board of Inland Revenue that they are going to use the free time to get new customers. That is the point—not the man who is declaring \$50,000 a month—The man who is making \$50,000 a month is not declaring at all.

Sen. The Hon. B. Kuei Tung: I am glad he asked for it because over the next few months I would seek evidence that the Board of Inland Revenue has really taken advantage of the opportunity I have provided them, one, with the concessions—and I know that the concessions have not fallen on very receptive ears as far as Prof. St. Cyr is concerned, and I know it has not fallen well with Sen. Daly with respect to the removal of the income tax forms. However, I ask Senators to give it an opportunity, give it a chance; it will work. If they really make a mess of this opportunity I do not know what else can be done to assist them, because they have been stuck in dotting Is and crossing Ts on pink forms,

Finance Bill
[SEN. THE HON. B. KUEI TUNG]

Tuesday, October 31, 2000

and denying people claims and allowances, because they did not provide this receipt, and because they have to provide evidence that this money has been spent and so forth.

6.00 p.m.

Mr. President, instead, I have changed focus to try and focus on the “biggies” and I make no bones about it. I asked them to develop a more full-fledge audit—I mean, that is the “biggies”. That is the guy you have to go after. There is a big taxpayer department now. Would you believe they actually form a big taxpayer department where all of the big taxpayers—and they know who are they. Now, I am not saying that they are not going to be out on the streets.

Mr. President, what we have just done is trained 100 new young auditors—not qualified auditors—to go on the street and start doing precisely, some of the things that Sen. Daly has been talking about. Start compiling this kind of information and learning about these people and going back and checking their returns to see what kind of returns that these people have been making. So it has started. I am pleased to hear—Mrs. Ali told me and she reminded me today—that she has already trained over 100 officers to improve this kind of coverage and to get new customers.

Let me deal with a few matters quickly that have been raised. Sen. Montano very glibly said that the business levy should be removed. I agree with him, except that it was the PNM who put it in. [*Laughter*] Of course, in those days the Senator was not helping to form policy, but now that he could help form policy he would understand. Now, I have always said that I do not think that it would be entirely removed. I think it has reached to a point where—to be quite frank—you could get it down to a bare minimum, because you want to keep these people on the road; you want to as well, look at these people who have from year to year, filed income tax losses and when you look at them they are growing. They have more Mercedes Benzes; they have more BMWs; they have more plant; they have more factories and they have more businesses, but every year they are losing money and they pay no taxes and we know them. We see them. So, I think, the business levy is one way to at least get a minimum from them and, secondly, to keep their tax file on record.

Incidentally, one of the points Sen. Montano raised, it was pointed out to me that the Board of Inland Revenue does have the discretion to waive or reduce penalties under the law. So that even though I have increased some of the penalties, in cases of genuine errors that you have talked about, the Board of

Inland Revenue can—if a proper case is presented to them—waive any penalties that could arise and just to quote the law to tell you what it says—

Sen. Montano: That is for PAYE.

Sen. The Hon. B. Kuei Tung: That is for PAYE. That is for any tax as a matter of fact. I hope it is consistent throughout all the taxes. They did quote one of the laws to show me how it is done and, for arguments sake, under section 99(4) states that the penalty is payable unless the Board of Inland Revenue otherwise directs. So the “otherwise directs” gives them the power to not charge if possible. But we have had to increase penalties.

Mr. President, let me just answer one of the questions raised by Sen. Mc Kenzie. If an employee thinks that his employer is deliberately over-taxing him, the employee has the facility to go down to the Board of Inland Revenue—there is a customer service there—and they could take his or her allowances and say, go to your employer, we have accepted that these are your allowances because you have provided evidence for us, and then the employer would then be required to deduct taxes in accordance with that TD-1. So there is provision for employees not to be taken advantage, of as it were.

Mr. President, the Art and Culture Allowance is another matter that seemed to have attracted a lot of negative comments. Let me start by saying quickly that I have always been impressed by the people who are in the art and culture field and there is no restriction on art and culture, incidentally, under this allowance. There is no restriction in the sense that it could be for anything. It includes individuals, groups, steelband, chutney and so on. It could include any form of art or culture. I will accept that some of it may be subject to abuse, and we are hoping that we would have put enough third-party verifications in place to ensure that it is not abused. Now, bear in mind that the art and culture is an allowance which is only given to corporations, it is not for individuals. So individuals cannot now claim it and there will be no abuse, as has been done in the past, with other allowances. I am hoping that, as well, corporations behave responsibly and do not attempt to abuse it, as it were and, secondly, it is only done once a year. The law clearly states that it is an allowance in any year of income.

Sen. Montano: I thank the Minister for giving way. On the question that you were talking about, in terms of steelbands and so on, it says incurred expenditure in respect of an artistic work. I do not see how a donation to a steelband would qualify as “an artistic work”. It seems to me that it must be some item as a song,

Finance Bill
[SEN. MONTANO]

Tuesday, October 31, 2000

or a play, or a photograph, or a painting but “an artistic work” seems to be quite specific.

Sen. The Hon. B. Kuei Tung: Senator, I enquired about that when you made the query, and what they told me is that the expression is being used for even a performance. So if a corporation wanted to sponsor a steelband’s performance—let us say they wanted to have a steelband evening—they will regard that as “an artistic work”. If a steelband wanted to visit overseas—I just want to use a quick example—for example, Barbados, that could be a sponsorship of the artistic work when the steelband performs in Barbados and so on. As I said, I am not a legal person and I am hoping that the assurances they have given me that it does mean to include—as I said, it does not matter what kind of artiste or artist and, bear in mind, I am talking about artist and artiste because they are both “the performer.”

There is a Liam Teague who wants to make a CD and needs some support. He does not have any money. He can go to a sponsor and get sponsorship for his artistic work and so on. As I said, I know there may be some abuse. The intent is not for it to provide a loophole, but a form of market and support for these art and culture people. Mr. Speaker, let me say that it was not intended to be for silly season, it was a genuine intent for us to support our artists and artistes.

Mr. President, let me talk a little bit about the Green Fund which seems to have given a lot of baring this afternoon. Let me start by saying that the Green Fund is not our environmental policy. It is not meant to replace and/or address every one of our environmental problems. It is another part of our armoury, in trying to address degradation and abuse of the environment. So, Sen. Prof. Kenny, what you see is just another part of an attempt.

In my view, the Environmental Management Authority and the Environmental Commission are going to be responsible for policing. Maybe, they will correct some of the wrongs that are being done by having the polluter correct it. So that if a polluter is hauled before the Environmental Commission by the Environmental Management Authority, and the polluter is charged and so on, I am hoping that the Environmental Commission will get that polluter to correct or remedy whatever he has done. Let me also say that the Green Fund cannot replace the Government’s responsibility for reforestation, it will not.

What the Green Fund was meant to do—in all fairness, when the concept came up—was to create a fund that the community groups could access, who may want to access things in which they may not have any avenue right now, and I will give you an example. If a small community wants to build a recreation park,

where do they go now? Nowhere! Do you know what they do? They start to scramble around and pull together all of their resources to see how best they can do it. Well, they now have an opportunity to go to this group which is managing money that is being put up by the business community, and that is basically what it is. The business community is putting up some money to say that it is willing to help put some money back into the environment—or if they want to create a botanical garden in Oropouche, or clean a river.

Now I do not want to sit and tell you all of the projects. I merely want to give you an idea as to how the Green Fund was conceptualized so that you will understand that we now have a fund. I think someone asked me what was our estimate. Our original estimate was about \$50 million in the first year, so it is not a lot of money. It could reach, in my view, as high as \$75 million.

Let me talk a little about some of the confusion that seems to have arisen. Our first thinking was to leave it outside of the Consolidated Fund and the Corporation Tax Net. So that we would tax the people, collect the money and hand it to this agency who would be responsible. Again, the agency would have representatives from what we call the tripartite, which is government, labour and business, for them to manage. So that there could be no accusation that Government has taken this money and one does not know what is going to happen to it because this is an agency that is being managed by a tripartite of government—and, I say, the government would be represented by the Environmental Management Authority—labour and the private sector.

Somebody asked why labour? Well, why not labour, because employees and employers impact on the environment. I assume that we want to have representation from all three groups. They are not perfect groups, Sen. Prof. Kenny, and I have no answer to the question “why employees or why business.” It is just that we had to find three stakeholders and we found that the three stakeholders could be government, employees and employers as the case may be.

6.10 p.m.

Sen. Prof. Spence: Would it not also be appropriate to have an NGO, or a couple of NGOs, which would have added two, two and two.

Sen. The Hon. B. Kuei Tung: What we wanted was the NGOs to access the funds. We did not want NGOs to access funds being managed by NGOs. It is not a perfect solution. We are just—

Sen. Prof. Spence: Well, I do not see why not. If they are going to be accessed, if their NGO is going to be accessing a particular project, then they do

Finance Bill
[SEN. PROF. SPENCE]

Tuesday, October 31, 2000

not participate in that discussion. But the NGOs would be in a much better position to say what they would do.

Sen. The Hon. B. Kuei Tung: I do hope they will make proposals. I have had discussions with the technocrats in any case. At the end of the year, what they plan to do is to have all the balances and that includes profits—I do not know where the word "profits" came but I presume they are profitable—because they may have money on fixed deposits earn some interest while the money is being processed and in order to ensure accountability, any funds that remain at the end of the year are going to be transferred to the Consolidated Fund. They do have an interest in getting the money out as quickly as possible. Any grants that are given would have to be gazetted so that it will be made public and, if necessary, we can have a modification to it to say that they file annual audited accounts and they will be laid in Parliament and so forth. There is certainly going to be a lot of accountability.

The reason I did not consider it as a business levy—and I want to use Sen. Prof. John Spence's suggestion: why not just make it into a business levy, divide it by one-third and transfer it to them? The thing is the business levy does not apply to every company and I wanted every single company to pay to this green fund.

I will give examples of companies that are exempted from business levy, including the energy companies. The energy companies do not pay business levy. If I only left it as the business levy, I would leave a lot of companies out which are exempt and in wanting to bring it in all of the corporations, I had to move away from the business levy even though I used the business levy concept. I did not use it as a business levy as you suggested, Sen. Prof. Spence, because I wanted to bring in all the other companies which are exempted from business levy into this.

I hope I have answered all the questions that I can with respect to the green fund. As I said, it is not a cure all. It is not going to answer—

Sen. Prof. Spence: I wonder if the hon. Minister could just comment on the comment that he made that it would sometimes be offset against corporation tax.

Sen. The Hon. B. Kuei Tung: I am asking to have that considered because I have had representation made to me by the business community saying that I have actually gone in the wrong direction in the sense that I have always said that I wanted to reduce taxes and here I come and impose another small, but increased tax. I told them, "I will tell you what. I will look at the possibility of having it

offset against corporation tax." That is why I made the comment that I may consider it. If I do that, the only amount that I would have to forego for corporation tax purposes are those companies which are in the business levy. Those who are exempted would not then be able to offset it against corporation tax.

I hope I have not confused you with that comment. I am only saying it is under consideration merely because the whole business community has made representation to me very recently about having it deducted and they say they would have no argument with that, incidentally.

Sen. Dr. St. Cyr raised a number of comments. Let me see if I can raise some of them quickly. Why apprenticeship of only six months? Part of the thinking of the Ministry is that we want the apprenticeship, hopefully, to roll over into an employee allowance. Now, remember, we have both an apprenticeship allowance and an employee allowance. We have tried to make sure you do not claim for the same person twice and that is why the law has had to distinguish. What we are hoping to do and I think it is a very practical implementation of this allowance, is that we assume that companies will take on a batch of people, train them during a six-month period—I know what they will do. They will identify the best ones, obviously, they will keep the best ones so that they will now roll from an apprenticeship allowance of six months into an employee allowance, which is not more than one year in any case.

In essence, you could say that this is a one and a half-year programme. I did not want to make it a one-year apprenticeship and a one-year employee just because I just wanted to keep it neat. That is because I wanted to keep them separate. I wanted the apprenticeship, because they may very well bring in 10 apprentices but only keep four or five. So, hopefully we get this thing moving and it will create jobs.

Was it Sen. Dr. St. Cyr who asked whether an employer can adjust the deduction from one year to another? He cannot under law. He could do it within the same period so if in one month he has under-deducted or over-deducted, he can make an adjustment within the same period of income but he cannot adjust for the previous year. Only the Board of Inland Revenue has the power to do that. The Board of Inland Revenue can give him a refund or charge him excess tax, as the case may be.

PROCEDURAL MOTION

The Minister of Public Administration (Sen. The Hon. Wade Mark): On a Procedural Motion, in accordance with Standing Order 9(8), I beg to move that

Procedural Motion
[SEN. THE HON. B. KUEI TUNG]

Tuesday, October 31, 2000

the Senate continue to sit until the conclusion of the matter now before it, as well as on the Supplemental Order Paper, Bill No. 2 and under "Government Business", Motion No. 3.

Question put and agreed to.

FINANCE BILL

Sen. The Hon. B. Kuei Tung: Mr. President, I was pretty close to my winding up in any case and I think I have answered all of the comments, questions and suggestions that have come up.

I thank Members. As I said, I myself picked up a few pretty good comments and suggestions. I thank Members for that. I think the Board of Inland Revenue—

Sen. Montano: I thank the Minister for giving way. Perhaps I was not here when he explained it, but the question that I raised on the matter of the interest that is outstanding at the end of December. Could he explain that for me again?

Sen. The Hon. B. Kuei Tung: I am told clearly—and the Treasury Solicitor is the one who advised me—and I just want to quote again from my own presentation. She said—and I am going to read—that this is covered.

"The concession has also been extended to cases where the outstanding principal amounts have already been paid, returns filed but the penalties and interests have not yet been paid."

So that if the interest has not yet been paid, the concession will also apply to that. They have paid the principal.

Sen. Montano: Prior to this coming into effect.

Sen. The Hon. B. Kuei Tung: No. Any time. Even now; even since December 31, but it must apply with respect to a tax liability that arose before December 31, 1999. December 31, 1999 is merely the cut off date by which the concession will relate to.

But she said if the principal had been paid even before that and you are still arguing over the interest or you are still paying interest, it will be allowed under this concessionary date. I am not seeing exactly which provision does it, but she has given me that assurance.

In wrapping up, let me thank all Senators. It has been a very stimulating exercise for me. I am glad to have heard all the comments. I have learnt more today about Sen. Dr. St. Cyr and Sen. Daly, and I want to thank Senators from all sides for the contributions made.

With these few words, I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Sen. The Hon. B. Kuei Tung: In accordance with Standing Order 63, I beg to move that the Bill not be committed to a committee of the whole Senate.

Question put and agreed to.

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

Bill accordingly read the third time and passed.

FREEDOM OF INFORMATION (AMDT.) BILL

Order for second reading read.

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

That a Bill to amend the Freedom of Information Act, 1999, be now read a second time.

The purpose of the amendments contained in the Bill before this honourable Senate is to clarify certain anomalies to promote its effective implementation.

Since this Bill was passed into law, there have been several committees which have been formed for the purpose of implementing the Act and one of the committees is known as the Legal Committee for the Implementation of the Freedom of Information Act. This committee discovered that there were certain matters which should be amended in order for the Act to come into force.

One of the things which the Implementation Committee has done was to prepare the various stakeholders, particularly the 180-odd public authorities which would be affected and the implementation team which comprises officials from a number of ministries under the chairmanship of the Minister of Public Administration, has been engaged in a sensitization programme of the provisions of this particular Act.

Target groups have met and sensitization programmes, including ministers, permanent secretaries, public officers and members of the media, chief executive officers of state companies, regional corporations, chairmen of boards, *et cetera*.

6.25 p.m.

Mr. President, the Freedom of Information Act was a feature of the Public Service Week, and the Act has been disseminated to members of the public and the public service. Permanent Secretaries have been meeting in an effort to give effect to the provisions of the said Act.

The proposed amendments contained in the Bill before us, essentially amount to a virtual fine-tuning of certain sections of the Act. The Ministry of Information and Public Administration, at that time, would have been responsible for this particular supervision and implementation of the Act in question.

Mr. President, as you know, we have had some alterations. Therefore, what this Bill is attempting to do is to put the responsibility for the administration, implementation, and supervision of this Act under the portfolio of the Minister of Public Administration. Section 3 of this Bill would make the Minister responsible for public administration, the Minister responsible for the overall monitoring of the Act.

There are provisions for the Act. For example, there are certain matters in sections 7, 8, and 9 for which a Ministry is responsible. Ministries have a duty to publish information. Every Government Ministry would have the responsibility of publishing information in accordance with the Freedom of Information Act. That is spelt out in section 7 which states that all matters should be published under section 7 of the Freedom of Information Act.

Mr. President, in section 8 of the Act, there are other documents which should be available for inspection and purchase. In section 9 there are other matters which, in respect of a public authority, would also be made available to the public.

In order to ensure that the Minister responsible for that, is the responsible Minister, and not the Minister responsible for the overall administration of the Act, the words "responsible Minister" have been inserted to make that very clear. Each Minister would be responsible in the respective ministries, under the various public authorities, for the publication of information. Under the Act, there is a Minister who is responsible for the overall administration of the Act, that is the Minister, as I said before, responsible for public administration. There are certain matters which must be published by public authorities and ministries. The Minister for that ministry will be responsible for ensuring that the documents related to those ministries are published and made available to the general population of Trinidad and Tobago.

Mr. President, the amendment to section 33 is purely renumbering, and the other section which is to be amended is section 35 of the Act. That section has been looked at again. This section, as Senators would recall, gives the authority to release a document, even though it is an exempt document, where certain conditions are satisfied. If we go back to section 35, it reads as follows:

“Notwithstanding any law to the contrary a public authority shall give access to an exempt document where there is reasonable evidence that significant—

- (a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual;
- (c) danger to the health or safety of an individual or of the public; or
- (d) unauthorised use of public funds,

has or is likely to have occurred and if in the circumstances giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so.”

Sen. Shabazz: Mr. President, through you, to the hon. Minister, before he finishes, would he be able to give a good rationale as to why the Freedom of Information Act was moved from under the Minister of Information to the Minister of Public Administration? I would be glad for that explanation.

Sen. The Hon. W. Mark: I would not be able to do that at all, Sir.

Mr. President, in order to give greater flexibility, this is one of the amendments that we are proposing to section 35 of this Act. As it is presently structured, it would be very difficult for a member of the public to access that information in the way that it is currently worded. Therefore, in order to give greater flexibility, and in order for the test not to be as rigorous as stated in the clause, the Government has decided that instead of having the words “and if”

“...in the circumstances giving access to the document is justified in the public interest having regard both to any benefit and to any damage that may arise from doing so.”

We should delete the words “and if” and replace it with the word “or”. Mr. President, it would mean that the public interest test is not as rigorous as it is now in the Act. It would mean that—

Freedom of Information (Amdt.) Bill
[SEN. THE HON. W. MARK]

Tuesday, October 31, 2000

“Notwithstanding...an exempt document, where there is reasonable evidence that significant—

(a) abuse of authority or neglect in the performance of official duty;”

Once we make the alteration, we would be able to have a greater degree of flexibility in accessing that information.

Mr. President, if there is—

(a) injustice to an individual;

(b) danger to the health or safety of an individual or of the public; or

(c) unauthorised use of public funds,
has or is likely to have occurred...”

This is going to take care of this particular section.

Mr. President, in respect of the other section which has to be amended; that is section 38A—I would read section 38A so that Senators could have an idea:

“A person aggrieved by the refusal of a public authority to grant access to an official document, may within twenty-one days of receiving notice of the refusal under section 23(1), complain in writing to the Ombudsman and the Ombudsman shall, after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit.”

Mr. President, what we would like to do is insert a specific timeframe for the Ombudsman to respond to the aggrieved citizen, because that is not inserted here at this time. What we are doing is inserting the words “within 30 days or as soon as practicable thereof” in order to give a timeline for a response.

These are some of the amendments; they are very simple and straightforward. We want to proclaim this Act as quickly as possible because the people of this country want to access information, and we want to deal with it. These are the amendments that we have proposed, and we look forward to the full support of my colleagues on the Opposition and Independent Benches, so that we can move forward to give effect to the Freedom of Information Act.

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

Question proposed.

Sen. Prof. John Spence: Mr. President, I have no difficulty with the Bill, but I would briefly like to make a few comments in general. I think it is ironic that we, in this Parliament, should be talking about elements of government giving information to the public, when we ourselves have glaring deficiencies in the way that we give information about ourselves in public.

First of all, the *Hansard* is always late. While we may have improved somewhat, we certainly have not reached the stage where we can give information on a timely basis. The giving of information on a timely basis is just as important as giving information at all. For example, we get a great number of documents giving audited accounts to state enterprises, often they are ten years old. That information is completely useless. Timely information is extremely important.

Any modern country in the world has to be assured that the deliberations of its supreme body, the Parliament, are available to the public immediately. There is absolutely no reason, with modern technology, why we should not be able to do this. As I said, it is ironic that we should be debating this. But, more than that, many countries in the world now have public broadcast of proceedings in Parliament. Until recently, we had an abridged version of the proceedings in Parliament. This has been stopped, Mr. President. Here we are, on the one hand, the Government boasting about the fact that it has put into effect the Freedom of Information Act, when that same Government has stopped the broadcast of the proceedings of Parliament. I ask the question, why?

I challenged the Government in a previous debate to continue those broadcasts. The hon. Attorney General said that he is in support of this. He even talked about having a special channel just for the Parliament, but it is not necessary to do that! They could start again tomorrow. Instructions could be given by a Minister in the Office of the Prime Minister that that programme be started again.

6.35 p.m.

We have a separate channel, Mr. President. Look at The Information Channel, TIC. If one goes through that channel, there are a number of things put in there that are unimportant to Trinidad and Tobago, and yet the proceedings of this body which are extremely important to the citizens of Trinidad and Tobago, do not get broadcast. Why? Why? Could the hon. Minister in his winding up say why? Shall I answer the question? Is it that the Government does not want to have the proceedings, particularly the contributions of the Independent Senators broadcast to the population of Trinidad and Tobago? Is that the reason? Mr. President, I hope that the honourable Minister would respond.

Thank you, Sir.

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I thank Sen. Prof. Spence for his limited contribution on this very simple amendment before us. I know that these matters are very close to his heart and he speaks with a certain sense of passion when it comes to the question of public broadcast of parliamentary proceedings. On the issue of *Hansard*, I know that, for instance, we have had some difficulties, and the staff, as you know, has been operating under very difficult conditions. But this matter, as Sen. Prof. Spence is well aware, is now the subject of a report, in terms of the whole restructuring of Parliament, so that Parliament could have some more independence in its operations as far as possible. We would hope that the relevant technology and resources would be provided to Parliament so that these questions of the late arrival of *Hansard* documents, and so on, could be addressed in the not too distant future. I am sure that matter would be addressed.

Sen. Prof. Spence: We do not need a complicated report. We know what can be done and what needs to be done, and the resources are available. Because in Trinidad and Tobago, especially this year, we have had the extra resources. We are paving the roads all over Trinidad and Tobago, at great cost. If that had been done continuously over the last five years, it would not have cost what it is going to cost now. I challenge the Minister to tell us what it is going to cost.

Sen. The Hon. W. Mark: I thought I was responding to the Senator's cry and his plea to get *Hansard* on a more regular and frequent basis. I am saying that I am with him on that matter and I will do whatever I can, as Leader of Government Business on this side to, at least, bring to bear the relevant pressures so that we can get things done and cracking. That is what I said I would do. [*Desk thumping*]

In terms of public broadcast, I sympathize with Sen. Prof. Spence on this matter. I understand his concerns about parliamentary broadcast. I am not in charge of Information. I will consult with my colleague in the Ministry of Information to determine what has happened there. I, myself, do not take much interest, as I used to in the past, in listening to parliamentary proceedings. But you have brought it to my attention publicly in this debate and I will have to make some inquiries into that matter and come back to Sen. Prof. Spence on it. That is what I would like to propose at this time.

Having regard to the fact that there is not much more I can say on this matter, I would like to propose that a Bill to amend the Freedom of Information Act 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.

Clauses 1 to 5 ordered to stand part of the Bill.

Clause 6.

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

Mr. Chairman: There is a typographical error on the Bill itself that moves from clauses 5 to 7, so we need to renumber subsequent clauses from clause 5. So clause 7 becomes clause 6, clause 8 becomes clause 7, clause 9 becomes clause 8 and clause 10 becomes clause 9.

Question put and agreed to.

Clause 6 ordered to stand part of the Bill

Clauses 7 to 9 ordered to stand part of the Bill.

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

Senate resumed.

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

STANDING ORDERS COMMITTEE REPORT

Adoption

Sen. Selwyn John: Mr. President, I beg to move the following Motion standing in my name:

Be it resolved that the Senate adopt the Report of the Standing Orders Committee of the Senate appointed to consider the proposed amendments to the Standing Orders to give effect to Section 66A of the Constitution.

Mr. President, Members would recall—

Sen. Prof. Spence: Mr. President, could you allow me to make a comment at this stage? We have only received this document this afternoon. We have not had a chance to look at it. In addition to that, the first copy that we received had errors; it had to be corrected. That copy was withdrawn and another copy was tabled, and I think it is most inappropriate that we debate this now. If the hon.

Member is going to introduce it now and make his opening remarks, I have no problem with that, but if we are proposing to debate it now, I think that is quite inappropriate.

Mr. President: The point is made. Go ahead, Senator.

Sen. S. John: Thank you, Mr. President.

Senators would recall that on October 17, 2000, the following Members were appointed to serve on the Standing Orders Committee: The Chairman, the President himself, Mr. Ganace Ramdial; Dr. Daphne Phillips; myself, Selwyn John; Mrs. Nafeesa Mohammed and Mrs. Diana Mahabir-Wyatt. The committee had, in fact, unanimously agreed on proposals for amendments that have been circulated. Members would note in Appendix I, the amendment which the committee dealt with. And in Appendix II, all that was changed here is to add a signature. The proposed amendment you would note in Appendix II and the agreed text—amendments that were agreed—would be outlined in Appendix III.

So that the matter is not that difficult for us to deal with this evening. I presume the Leader of Government Business would decide whether the debate would follow later on.

I beg to move.

Mr. President: Before proposing the question, I just want to raise with the Leader of Government Business in light of Sen. Prof. Spence's comments, whether you wish us to proceed.

Sen. Mark: Mr. President, what Sen. Prof. Spence indicated to you and to this Senate, he did indicate to me. I did indicate to Prof. Spence that the Attorney General is coming across in a short while to this debate and many of the points that he has, and he has raised with me, would be cleared and clarified behind the Chair, or maybe when the debate commences in earnest. We have certain things that we have to do and I did indicate to him that we would want to proceed with this matter this afternoon.

Hon. Senator: Why?

Sen. Mark: I indicated that this matter was already approved in the other place. The Senator is well aware of that. I would like to suggest that we commence the debate and the Attorney General would be arriving shortly and some of the concerns expressed by Sen. Prof. Spence could be dealt with behind the Chair or otherwise, but at least we would move forward. That is what I would like to propose.

Question proposed.

6.50 p.m.

Sen. Nafeesa Mohammed: Mr. President, I thank you for enabling me to speak at this point but I stand here in a very embarrassing and awkward position at this point in time to have to deal with this report of the Standing Orders Committee. I say embarrassing because I have found myself now in a situation where a report was presented to me, I was asked to sign it. Whilst signing it, I enquired about what transpired downstairs in the other place and was informed that the report was signed by one of my colleagues.

Subsequently, when I made some contacts with my other colleagues I discovered that this report was, in fact, debated in the other place on Friday last. And that our side in the other place had taken a particular position with respect to this report. From Friday until now I have not had the opportunity to liaise with my colleagues to have had an informed position with respect to our position in this particular matter. Now, having signed the report, I find myself in a very embarrassing, awkward and disadvantageous position. In fact, I was even asking if it is possible that the report can be withdrawn and let the records show that it was not signed by me. Let a new one be circulated.

You see, it is a reflection of the high-handedness, the haste, and the disorganized state of our affairs in the Parliament here. Last week when we left this Chamber, we were informed that we were going to be dealing with Private Members today, only to be informed—yesterday I received a call from my colleague—about the fact that today we would be dealing with the Finance Bill, a Land Acquisition Motion, a Private Securities Bill and a Firearms Bill. I did not hear anything about Senate Standing Orders Committee Report. Until I came into the Chamber this evening, I was not aware that this report was, in fact, going to be dealt with.

For the records, I wish for it to be noted that on Friday I sat in a meeting of the Standing Orders Committee in the Parliament Building and during our deliberations we dealt with amendments, and at the top were headed “Amendments” and it involved the House of Representatives. So that the assumption, on my part, was that these amendments were amendments that came from the House of Representatives. Here it is today, upon entering the Chamber, I ended up signing a report only to discover what our real position had been and now I am in a very embarrassing position.

Mr. President, thank God our Parliament is going to be dissolved soon and the people will have an opportunity to speak. Because we just cannot go on like this

Standing Orders Committee Report
[SEN. MOHAMMED]

Tuesday, October 31, 2000

anymore. It is scandalous to come to railroad this report. If I had to sign the report one would have expected—as I normally do, because I have sat in other Committees, and I would normally have the matter discussed with my colleagues as a team. That is how we operate. But time did not permit. From Friday until today I am informed that there was some report about this matter on the newspapers during the weekend. Is that what I am supposed to rely on in order to make an informed decision on the matter, Mr. President? It is scandalous, and I feel very disadvantaged.

I wish this report can be withdrawn, given the fact that my signature appears on it under circumstances that really were beyond me. I am not casting aspersions on any one involved in terms of the deliberations of the Committee or what have you. It is just the disorganization that has been taking place in the parliamentary affairs in this Chamber over the last few weeks, if not months, because everything is being railroaded through. Everything! Every day we come here we are told that we are going to do “X” and when we come on a particular day we have been dealing with “Y”, and very little time to prepare yourself. So many times we have tried to accommodate the Government, but they just want to come and railroad their way through. If it is that there was proper planning then, perhaps, we would have had ample opportunity to deal with this matter in a very informed way.

It is extremely embarrassing. And I really wish to put on record the fact, that although my signature appears there, I really wish that there was some mechanism available where the report can either be withdrawn, or let it be shown that I am withdrawing my signature from the document. I really wish that is possible.

The amendments that are being proposed to the Standing Orders Committee, are amendments that relate to a piece of legislation that concerns the Freedom of Information Act and during the course of the debate on that particular Act, I remember there was a furore, an uproar, over the provisions of that legislation. Because that legislation was tampering with some very entrenched provisions in our Constitution that deal with the setting up and the operations of Service Commissions in our country. Our position was that that kind of legislation required a special majority. But with the conniving attitude of this Government, in an effort to pass it through the Parliament and to go on the hustings and boast about what legislation they have passed, to lock up those who are found to be dealing with things in a dishonest manner, they went through with the Bill with a simple majority.

Now, Mr. President, there are very serious concerns. That matter also involves the Judicial and Legal Service Commission, which is a very independent body. I remember last week enquiring from the hon. Attorney General about this and he said, “Well, the parent Act had excluded the Judicial and Legal Service Commission.” Certainly, in terms of the rules, the rules would not reflect that part, or the proposed amendments to the Standing Order Regulations.

More than that, here it is they are trying to railroad, as usual, to score political points as they go on the hustings, to boast about what legislation they put into effect, and I remember the call that had been made for amendments to the Standing Orders that relate to the Crossing of the Floor Act. Why could they not come with the same haste to amend the Standing Orders to make the amendments that were necessary in order to make the Crossing of the Floor Act effective. But you see for political expediency, it suited them to have Members crossing the floor and they really—contrary to what they may say and what they have said in the past—have no intentions to give teeth to that particular piece of legislation. How long are they going to continue with this, Mr. President?

I really feel very, very, very, embarrassed and very disadvantaged having signed that report. We really just cannot continue like this anymore. It is unfortunate, it is regrettable and I merely wish, for the records to show, that that particular signature on the report is a signature that you know I really wish could be withdrawn. I pray and hope that in future—whether it is one more sitting of this Parliament, or if it is that God forbid, any Senators on that side were to have the opportunity to be in Parliament again, that they for God sake, avoid operating like this.

We are dealing with our institutions in the country and you cannot come like a thief in the night. Look at the hour, it is 7.00 p.m. and here it is we are having to debate this matter. All of a sudden—in fact, they want to stay until 10.00 o’clock or midnight tonight. They just want to railroad and rush through all sorts of matters, so that matters would not be properly ventilated or you would not get informed views to be able to express here. Like a thief in the night, that is how they are operating, and more so, we have to say they operate like—anyway, Mr. President.

7.00 p.m.

I really feel very strongly about this matter and I am pleading with this honourable Chamber, if it is at all possible for that report that I inadvertently signed to be withdrawn. If not, I am asking that the records show that because of

the haste with which they have treated with this matter, that it is only a few minutes ago I had actually gotten the *Hansard* report and was able to have a quick glance at what transpired in the other place but because of the haste with which they are operating, I have found myself in this position. Mr. President, I am sorry and I really, really wish that things could be operated differently and we could treat each other as professionals, and treat this Chamber with the dignity and the respect that it deserves. I thank you, Mr. President. [*Desk thumping*]

Sen. Martin Daly: Mr. President, I will make a very brief contribution. I can make no useful contribution to this because I received this when I arrived here at 1.05 today. I would just like to document what has happened in this matter, so far as my participation is concerned, because I really have tried in every way conceivable to make a very simple point. We cannot conscientiously, honestly, fulfil our duties if we do not have time to read the material that we have to debate. I do not understand how that could be contentious. Now, in my case I saw this at 1 o'clock today. The events that preceded this were as follows.

On the last occasion when we left, we were told we would have Private Members' Day, [*Desk thumping*] and when pressed by us the Minister of National Security said if we had time we would do Private Security Agencies. The next thing that happened is, I received a package on Friday which informed me that the Finance Bill would be taken today through all its stages. The next thing that happened is, I got a package, I think it was this morning, saying that the amendments to the Freedom of Information Act would be taken today. I heard not one word prior to arriving here today that the Standing Orders would be dealt with.

Now, I think I have made it plain. I do not mind what anybody says about me. What I know is I cannot fulfil the oath that I took and debate material that I have had no opportunity to read. I do not see how that can be contentious and I dare say there are other Members in the same position as I. So, first of all, we are entitled to rely on the courtesy that is extended to us before every sitting to receive some notice of what we are going to debate because we have to prepare. We have to read the material, first of all, to see whether it is within our sphere of competence, sometimes to consult with other colleagues to see if they are going to take on this particular labour, then to see whether we wish to propose any amendments. It is not just a question of sitting here like cannon fodder and saying we sat until 2.00 or 3.00 in the morning. I have reconciled myself to the fact that if that is how one is going to test whether someone is dutiful by how long they spend here, well, then, we are standing the world on its head.

The next point I want to make is, it is particularly grievous when one considers the subject matter of this legislation. This is not a Bill about Government policy. This is not something that has vote appeal for any side in the political process. This is a matter which, par excellence, should be treated in a bipartisan way. This is something that concerns the organization of parliamentary business. It seems to me inconceivable that it is something about which we should be at loggerheads. It is quintessentially something that is not partisan. This concerns amendments to the Standing Orders about the way the Parliament works. How can I be part of an organization where the rules are going to be changed and I have had no opportunity to consider the rules and the organization in which I work? I am just amazed, Mr. President, that one should need to argue a case that one cannot perform one's duties without being given adequate notice of what is on the agenda and being given time to read it.

We accommodated the Government the other day by dealing with matters concerning life and death. We were given 30 minutes and then we had some extended time to consider amendments that we had proposed, that were considered reasonable. In a matter concerning life and death the crime of murder we were given 30 minutes and some extended time. I mean, where are we really going? I can only speak for myself but I do not know at what stage I will be performing my duties with a complete lack of fidelity to the oath which I have taken. I have not read one word of this document, because I had some concerns about the Finance Act. I looked up my statute, I researched what I wanted to deal with, it appeared to me the Freedom of Information Act was not contentious and I would catch up on the Private Securities about which we have had some notice.

Now surely, Mr. President, whatever the political contingencies out there, they cannot apply to this, which is the rules of our organization which should be treated in a non-partisan way. I am not going to beg anybody—I cannot contribute to the debate and the information which I have is that we have not been able to get a stay of execution. So I would just like to put it on record that I cannot contribute to this debate because I had not seen the material until 1 o'clock today. It is not about my personal convenience, it is about the way we do business in the Parliament, and I am positive there are other Members who are in the same boat. So that I can make no useful contribution.

I do not even know—I have not even had time to find out whether this is a matter that goes to committee. I am not ashamed to say I do not know something. I do not know whether this is something that will go to committee, so that even if I cannot speak on the debate, sometime between now and whenever we adjourn I

can look at it and see whether I can propose anything in committee. I have not even had time to find out whether that is possible. Now, if it turns out that is not possible, then we might as well not bother to have any debate. We could just as well say, “Well, when these things come to the Senate we are obliged to pass them and that is the end of the matter”.

I mean, at the risk of repetition, these are the rules of our own organization that they are treating with in this way. I mean, if there is some contingency that makes it impossible for us to have time to read the legislation, well then, it will have to stay unpassed, particularly as it is not a matter of life and death. When I consider that we stayed till late in the night so that Sen. Gillette could present the Telecommunications Bill—I certainly attended the committee meeting about that Bill—and that has now completely disappeared; that was just a complete waste of time. Now, this is not a personal thing. This is about the conditions under which Senators serve and the conditions which—how we are to perform the duty and when people ask, “How was it? Did you enjoy it? Did you think it was useful?” What is the objective—to make the conditions so impossible so that no one would serve? I think it is a really very serious matter.

So that, Mr. President, that is my contribution on this and if I cannot make a contribution in committee, well, I will just sit here, ritualistically, until whatever time. Thank you, Mr. President.

Mr. President: I should just point out that this is a Motion. There would be no committee. Any other contributions?

Sen. Prof. John Spence: Mr. President, I endorse all that Sen. Daly has said. I agree with him entirely. *[Interruption]* Well, I think one has a dilemma and the dilemma is either to, as he suggests, depart and leave the Government to pass the Motion on its own—I have difficulty with that as well, because I feel that I have a duty, however badly to perform—under the circumstances I have a duty to perform. I must say in order to read these proposed amendments, I had in fact to ignore most of the Finance Bill, on which I may have made a longer contribution than the one I made, but I was unable to pay attention to that because I was trying to catch up on this. Indeed, as you are aware, Mr. President, just glancing through it, I found that there was an error. Now, I do not know whether there are any more errors, so we may be passing a document which still has errors because I have not been able to look at it that carefully.

I would just like to make two points with respect to what I have been able to deal with so far. In the parent Act which these Standing Orders are giving effect

to, the Judicial and Legal Service Commission is exempt from the provisions of the Act and there are separate provisions made for that body in that they are required to give a report which is eventually laid in Parliament.

“The Judicial and Legal Service Commission shall submit to the President before 1st October, in each year, commencing in the year 2000, a report on the exercise of its functions...”

That is separate. But under 66C (1) it states:

“Section 66A and 66B shall not apply to the Judicial and Legal Service Commission.”

Now, I think that our Standing Orders should reflect the provisions of this Act. It may be that in other areas we do not, but certainly in this I think we do not and I would like to suggest—and I would be grateful if the Clerk of the Senate would now circulate an amendment which I have proposed. I would like to suggest that after “Service Commission” we insert:

“...except the Judicial and Legal Service Commission...”

Now, Mr. President, I have another point and it is to do with an amendment that was made by our Standing Orders Committee. Personally, I felt that the original version of this document which we were given some days ago, in section 2 spelt out in some detail how the committees might function, and—sorry, in section 7. I am sorry, I am a bit lost at the moment. [*Interruption*] Yes, I have to agree with my colleague that we are having a problem. Yes, paragraph two. Our Standing Orders Committee made a change in paragraph two in which it deleted certain details of how the committee would operate and substituted a phrase or a paragraph from the Act itself. I do not know if the Government side, in making contributions, would like to comment on this particular change that has been made by our Standing Orders Committee, and explain why the change should have been made.

Having said that, I would say, Mr. President, as the Senate well knows, I have been in support of parliamentary committees even before this document was prepared. Indeed, as you will recall, the Senate originally changed its own Standing Orders in order to have parliamentary committees—that was before we had an Act—and so there was no doubt that my position is that it is extremely important that we move in this direction.

7.15 p.m.

Mr. President, I agree that there should be public hearings of these committees as is provided for in the Standing Orders and so, generally, I think it is an

important step forward that we are making in this regard. Of course, I would once again make the comment that I made earlier on about the broadcasting of parliamentary debates. If these committees are not going to be televised and broadcast then I think we will lose a great deal of the importance of the committees.

In the United Kingdom and the United States of America a very important part of their democracy as it has developed, is the public hearing of their deliberations of their committee system. So, I think it is extremely important that we do this. Now, the hon. Attorney General has expressed himself in support of this view. He has even suggested that there should be a separate channel for broadcasting Parliament. This is to my mind not necessary at this stage because the Government has two television stations one of which, as I said, in the previous debate, broadcasts a lot of material that is certainly not critical for Trinidad and Tobago—I may say, some of it is even irrelevant, so that there is no reason why this should not start immediately.

Mr. President, if we are going to approve these amendments to the Standing Orders, set up these committees, and then do not have them available for public scrutiny, then what we are doing really is to hoodwink ourselves and the public in general that we are making a step forward when, in fact, all we are doing is to stay exactly as we are, but have the pretence that we have moved forward. So, I think, it is extremely important that that aspect of the—indeed, had I had more time to look at it, I might have suggested that we include some provision in these standing orders, making it mandatory that the debates be broadcast publicly. I still feel that if it is possible to do that, that is precisely what we should do because without that, I think it is a waste of time.

Mr. President, thank you.

Sen. Dr. Eric St. Cyr: Mr. President, I am in absolutely no position to take part in this debate. I went to bed last night quite late, got up early, spent the entire morning studying the matters we are to deal with this morning, and when I got here at 1.20, this report was on the desk. I had no time to study it because I wanted to follow very carefully the debate on the Finance Bill, and so I am absolutely in no position to contribute. I do not know what this is about.

I feel that even with all the big titles in front my name like Sen. Dr. and the rest of it, I feel absolutely helpless, even naked. I say this not with any pride whatsoever, because I really do not think that the highest institution in the land should put anyone of its Members in such an awkward position.

Mr. President, I thank you very much.

Mr. President: Hon. Members, there is a proposed amendment by Sen. Prof. Spence which I did not propose and procedurally, I should propose it and that is the Motion be amended by first column paragraph one, second column, extend the amendment in paragraph 1(d), after the word “Commissions” add the words “except the Judicial and Legal Service Commission”, so Senators can in fact debate that also.

Sen. Philip Marshall: Mr. President, I am not quite sure what is going on but I think the debate is in progress. Is that correct? [*Laughter*] Mr. President, I would certainly want to support Sen. Prof. Spence’s amendment. Am I correct procedurally here? In addition, I have not circulated a proposed amendment, but I am concerned that certain Government state enterprises and very large state enterprises for commercial profit really come under the orbit of this Bill.

The Government has a number of state enterprises, especially, in the energy sector, and these enterprises do have to succeed in a competitive market place. These enterprises do fall under the Companies Act of Trinidad and Tobago. They have properly appointed Government structures, chairman and members of the Board, and I feel an exception should be made with respect to these companies. If we have the Public Enterprises Accounts Committee—I know that they operate in terms of hindsight—they can review the accounts.

Mr. President, I do not think that we should have a situation that may arise, where a duly constituted chairman and board of directors have their decisions—possibly second guessed—by a parliamentary commission especially, where it may be a matter of a current issue and a matter that does affect the commercial success of that enterprise. Mr. President, for example, if such an enterprise with 100 per cent Government shareholding were negotiating a union agreement, would a parliamentary committee have the power to debate in a current fashion how that board of directors should come to a decision on the enterprise?

Mr. President, I do know that one of the concerns could well be, if you have a loss making state enterprise where there appears to be not sufficient decision making concerning accumulated losses, there could be a concern by Members of Parliament that the taxpayers of the country may not be kept abreast of very important long-term decisions. But, I believe that we should really leave the Companies Act and the existing governance structures to these limited companies to fall under that ambit of governance.

So, I just want to end this contribution by saying that I really would support an amendment that state enterprises that fall under our Companies Act that have

properly duly constituted boards of directors and led by chairmen and have their own annual and performance reporting, not be subject to a parliamentary committee that may inquire into their decisions.

Mr. President, thank you.

The Attorney General and Minister of Legal Affairs: (Hon. Ramesh Lawrence Maharaj): Mr. President, I do apologize for not attracting the Chair. Mr. President, I just want to make a few comments in this matter. I am very sorry that Hon. Senators have not had the opportunity, as they say, of reading the Standing Orders. I would just like them to bear with me a bit.

Mr. President, as we all know, section 4 of the Constitution (Amdt.) Act No. 29 of 1999 says:

“This Act shall come into force when Standing Orders are made to give effect to section 66A.”

Section 66A was a new section of the Constitution, which gives the power to Parliament to appoint under its Standing Orders, within a certain time frame—

“Joint Select Committees, to inquire into and report to both Houses of Parliament in respect of—

Government Ministries;...

in relation to their administration, the manner of the exercise of their powers, their methods of functioning and any criteria adopted by them in the exercise of their powers and functions;”

7.25 p.m.

The Act gave the power for such committees to appoint sub-committees from its members and delegate any of its powers to such sub-committees, and also to appoint specialist advisers to assist them in their deliberations.

Mr. President, the Standing Orders they are to give effect to what is contained in the Act. As we go through the Standing Orders very quickly, one would see that there is really nothing fundamentally new to what is in the Act. Bearing in mind what Sen. Prof. Spence said: that under the Act, the Judicial and Legal Service Commission was expressly excluded. Since the Act is to give effect to parliamentary committees to inquire into, examine and report, it will only be the service commissions which are defined in the Act, and which are amenable to the provisions of the Act. The Judicial and Legal Service Commission is not part of

the Standing Orders. When the Standing Orders says service commissions, it will be service commissions as defined by the Act, which are amenable to the provisions of the Act.

Section 4 of the Act expressly states that the Act shall come into force when the Standing Orders are made to give effect to section 66A.

Sen. Prof. Spence: Mr. President, if a better wording of the amendment would be “service commission as defined in the Act”, I have no problem with that.

Hon. R. L. Maharaj: Mr. President, I do not have a problem, because even though the other place did not have that expressly, there is no harm in putting that in the Standing Orders of the Senate. I do not have a problem with that. *[Interruption]*

Mr. President: Are there further amendments?

Sen. Prof. Spence: I am not a lawyer, if the hon. Attorney General feels that there is a better way of wording it, and would like to suggest it, would withdraw my amendment. My amendment would stand, unless he suggests a different wording, in which case I would withdraw my amendment.

Hon. R. L. Maharaj: Mr. President, before I close my contribution, I would undertake to move the amendment, so that it will reflect what Sen. Prof. Spence wants.

Sen. Daly: Mr. President, may I raise a point of order please? Since we have had no preparation time, how does one propose an amendment; does it have to be submitted in writing in the usual way?

Mr. President: You can circulate it.

Sen. Daly: If one wants to make another amendment at this stage, what is the procedure, do we have to circulate it in writing?

Mr. President: In the process of your debate, you raise it, and you say: “This is what I would like to do”.

Sen. Daly: So it is still possible to put in an amendment in writing now?

Mr. President: Yes.

Hon. R. L. Maharaj: Mr. President, may I continue?

Mr. President: Yes, you may.

Hon. R. L. Maharaj: If we look at the Standing Orders, the first Standing Order states:

“71A(1) Subject to paragraph (3), the Senate shall appoint members to sit with Members of the House of Representatives as joint Select Committees to inquire into and report to in respect of—

- (a) Government Ministries;
- (b) Municipal Corporations;
- (c) Statutory Authorities;
- (d) Service Commissions; and
- (e) enterprises owned or controlled by or on behalf of the State or which receive funding from the State of more than two-thirds of their total income in any one year.”

Mr. President, that is taken straight from the Act. I do not see any problem with that.

Section 71A(2) states:

“A Joint Select Committee referred to in sub-paragraph (1), shall be empowered to study and report on all matters relating to the mandate, management and operations of the Ministry or body which is assigned to it by the Senate.”

That is exactly what the Act has asked us to do.

“In general, the Committee shall be severally empowered to review and report on—

- (a) the statute law relating to the ministry/body assigned to it;
- (b) the program and policy objectives of the ministry/body and its effectiveness in the implementation of same;
- (c) other matters, relating to the management, organisation or operation of the ministry/body, as the Committee deems fit.”

Mr. President, this is exactly what the Act has asked the committees to do. What we have thereafter are matters which are common to joint select committees.

“(3) The Senate shall appoint not more than six members to any joint Select Committee appointed for the purpose of this Standing Order.”

That gives you an idea of how many members would be on the joint select committee.

“(4) A Joint Select Committee may, by resolution, authorize its Chairman or Vice Chairman to continue meetings in order to receive evidence if it appears that a quorum can no longer be sustained, except that a quorum shall be required whenever a vote, resolution or other decision is taken.”

Mr. President, that has to be there; it is a simple matter as to what will constitute a quorum in relation to when there is no quorum.

“(5) Within ten days following the appointment of Members to serve on joint Select Committees, the President of the Senate shall summon a meeting of each committee and the first business to be transacted thereat shall be the election of a Chairman and a Vice Chairman and the determination of a quorum. If at such meeting a Chairman is not elected, the President shall appoint a Member of the Committee to be the Chairman.”

That is very simple, if I may say so, with the greatest respect.

“(6) Every Joint Select Committee established under this Standing Order shall have the power to appoint Sub-Committees and to delegate to any such subcommittee all or any of its powers except the power to report directly to the Senate.”

That is exactly from the Act, because the Act gives the committee the power to appoint sub-committees, that is in section 66A(c)(i).

It continues:

“(7) In addition to powers granted by these Standing Orders...”

So, the Standing Orders already have powers which are given to joint select committees.

“...each Joint Select Committee shall also have the following powers, namely—

- (a) to send for persons, papers and records;
- (b) to sit notwithstanding any adjournment of the Senate;
- (c) to adjourn from place to place;
- (d) to report from time to time;
- (e) to appoint specialist advisers either to supply information which is not otherwise readily available, or to elucidate matters of complexity within the Committee’s or the Sub Committee’s order of reference;”

If one looks at the Standing Orders of the Senate and the House, one would see that these are the powers given to some of the committees of the Senate, with the exception of specialist advisers. We included specialist advisers because the Act expressly states in section 66A(c)(2) that specialist advisers are appointed to assist them in their deliberations. The Standing Orders cannot exclude that; it must have that.

It continues:

- “(f) to communicate with any Committee of Parliament on matters of common interest;
- (g) to meet concurrently with any other Committee for the purpose of deliberating, taking evidence or considering draft reports.
- (8) The specialist advisers referred to in paragraph (7)(e), with the approval of the Committee or Sub-Committee, may question persons appearing before such Committee or Sub-Committee.”

That was deleted because it stated that the advisers should not have the power in order to do that.

- “(9) Except the Senate directs otherwise, every member of a joint Select Committee appointed under this Standing Orders shall continue to be a member of that Committee for the duration of the life of the Parliament.”

No. 10 is just renumbering the section.

- “(11) The provisions of this Standing Order are in addition to and without prejudice to any other powers of the Senate with respect to joint Select Committees.
- (12) Meetings of each joint Select Committee appointed under this Standing Order and of any sub-committee appointed under paragraph (6) of this Standing Order shall be held in public, unless the Committee or both Houses otherwise resolve.”

It is saying that the meetings must be held in public, unless the committee or the House resolve otherwise.

Numbers 13 and 14 are very simple and for the benefit of the Parliament.

- “(13) The Minister responsible for the ministry/body under review shall, not later than sixty days after a report from a Joint Select

Committee, relating to the ministry/body, has been laid upon the Table, present a paper to the Senate responding to any recommendations/comments contained in the report which are addressed to it. All such papers presented by the ministry/body shall be ordered to be laid upon the Table without question put, and any motion for the printing thereof as a Senate Paper shall be determined without amendment or debate.”

We have changed ninety days to sixty days. There is an obligation to lay upon the table, any recommendations/comments contained in the report.

“(14) If the period of sixty days referred to in this Standing Order expires on a day when Parliament is in recess or the Senate is adjourned, the Minister referred to in paragraph (13) shall present to the Senate, the paper responding to the recommendations/comments, no later than the third sitting day following that recess or adjournment.”

7.35 p.m.

Mr. President, one sees that in relation to the amendments also that paragraph two was amended to reflect exactly what the Bill says. What I read just now relating to the mandate, management and operation of the ministry or body talks about the statute law relating to the ministry or body.

The Opposition in the other place, at the committee stage, recommended that we use the exact words of the Act in relation to the administration, the manner of the exercise, methods of functioning and any criteria adopted by them in the exercise of their powers.

Mr. President, I know that the fact that the Opposition has supported it at the committee stage is no reason the entire Chamber should support it. I know the fact that it is simple, is no reason it should be supported because Members are saying that they did not get an opportunity to study it.

Having taken the trouble to read it through and show Members what these Standing Orders really do, I would trust that Members would have second thoughts of their decision.

Sen. Daly: Mr. President, on a point of clarification look at 71A(1)(e)—enterprises owned or controlled by or on behalf of the State.

And this is the critical part:

“...or which receive funding from the State of more than two-thirds of their total income in any one year.”

Suppose Servol got two-thirds of their income, are they going to be subject to a parliamentary committee?

Hon. R. L. Maharaj: Mr. President, when this matter was debated, in the Act itself, that is what the Senate agreed to. If I read section 66(8)(a) Parliament will resolve...appoint Joint Select Committees to inquire into and report to both Houses of Parliament in respect of—

- (a) Government Ministries;
- (b) Municipal Corporations;
- (c) Statutory Authorities;
- (d) Enterprises owned or controlled by or on behalf of the State or which receive funding from the State of more than two-thirds of their total income in any one year.”

Sen. Daly: Does Servol...*[Inaudible]*

Hon. R. L. Maharaj: If it falls under that category it is covered and that amendment to the Act came from the Independent Bench. I remember quite clearly that it came from the Independent Bench. I do not want to say who is the person, but I think the Senator knows. It came from the Independent Bench and I think he does not mind me saying it. I think it was Sen. Prof. Spence, am I correct Senator? It came from the Independent Bench because this was not part of the Government’s Bill because it was being contended that in order to have effective accountability of public funds we should have that definition as it is. So really and truly the Standing Orders merely repeat to a great extent what is in the Act because the Standing Orders are to give effect to the Act and the other parts of Standing Orders are what are the powers of Join Select Committees which are basically what powers Joint Select Committees have in any event with the two additional powers, that is to say, with specialist advisers and the appointment of sub committees.

Mr. President, from the point of view of a legal perspective, it is not necessary, but it has been raised by Sen. Prof. Spence and I think he will be happier if it has after the words “service commissions” in 71A(1)(d) the words “service commissions as defined by the Act”.

Mr. President, I beg to move an amendment to 71A(1)(d) to insert after the words “service commissions” as defined in the Act.

Mr. President, I thank you very much for the opportunity of making this contribution.

Sen. Prof. Spence: Mr. President, I withdraw my amendment.

Sen. Selwyn John: Mr. President, the fact that the Attorney General has been able to clear some of the matters raised, I have one matter to speak on and that is the Member of the Committee, Sen. Mohammed who said that she regretted having to sign the report. One would feel if she sat on a committee and this is what the committee agreed to, it does not matter what your colleagues in the other place might have said, this is what you sat and agreed on. I feel that there was no question of Sen. Mohammed having any objection to any aspect of the report at the committee stage. That being so, Mr. President, I beg to move.

Mr. President: Hon. Members, we have the minor amendment proposed by the Attorney General with respect to commissions which says:

“In paragraph 71A(1)(d) after the words “Service Commissions” add the words, “as defined in the Act”.

Question proposed.

Question put and agreed to.

Mr. President: I shall now put the Motion with the amendment as agreed.

Question proposed, That the amendment be adopted.

Question put.

Sen. Daly: [*Inaudible*]

The Senate divided: Ayes 16

AYES

Mark, Hon. W.

Kuei Tung, Hon. B.

Theodore, Hon. Brig. J.

Baksh, Hon. S.

Phillips, Hon. Dr. D.

Gangar, Hon. F.

Gillette, Hon. L.

Tota-Maharaj, Hon. V.

Baksh, N.

Hamel-Smith, P.

John, S.

Gray-Burke, Rev. B.

John, J. Ms.

John, W.

Spence, Prof. J.

Cabrera, V.

The following Senators abstained: M. Daly, Dr. E. St. Cyr, P. Marshall, Mrs. L. Sultan-Khan Valere.

Question agreed to.

Report adopted.

ADJOURNMENT

The Minister of Public Administration (Sen. The Hon. Wade Mark): Mr. President, I beg to move that the Senate do now adjourn to Tuesday, November 7, 2000 at 1.30 p.m. at which time we will address Private Members Business.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.48 p.m.