SENATE

Tuesday, April 03, 2001

The Senate met at 1.30 p.m.

PRAYERS

[MR. VICE-PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, Sen. The Hon. Ganace Ramdial, President of the Senate, will be out of the country during the period March 31 to April 15, 2001.

I have granted leave of absence to Sen. Christopher R. Thomas from sittings of the Senate during the period March 28 to April 14, 2001.

I have also granted leave of absence from today's sitting to Sen. Joel London on the grounds of illness.

SENATOR'S APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency, the President of the Republic of Trinidad and Tobago:

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Arthur N. R. Robinson

President.

TO: MR. VINCENT CABRERA

WHEREAS Senator Ganace Ramdial 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 3rd April, 2001 and continuing during the absence from Trinidad and Tobago of the said Senator Ganace Ramdial.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 2nd day of April, 2001."

OATH OF ALLEGIANCE

Sen. Cabrera took and subscribed the Oath of Allegiance as required by law:

PAPERS LAID

1. Report of the Auditor General on the accounts of the Legal Aid and Advisory Authority for the year ended December, 31, 1998. [*The Minister of Finance (Sen. The Hon. Gerald Yetming)*

2. Annual Audited Financial Statements of National Quarries Company Limited for the financial year ended July 31, 1999. [*Sen. The Hon. G. Yetming*]

3. Report to Parliament by the Integrity Commission on its activities for the year 2000. [*The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette)*]

ORAL ANSWER TO QUESTION

The following question stood on the Order Paper in the name of Sen. Prof. Julian Kenny:

Town and Country Planning Act

(Enforcement Notices)

4. a. Could the hon. Minister of Integrated Planning and Development inform the Senate whether enforcement notices under section 16 of the Town and Country Planning Act have been issued in each of the years 1998, 1999 and 2000?

b. If the answer is in the affirmative, could the hon. Minister state the number issued in each year, the general nature including the localities of the breaches of planning control and the status of these enforcement notices?

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, I beg to move that the answer to question 4 be deferred for a period of two weeks.

Sen. Prof. Kenny: Mr. Vice-President, is there an Acting Minister of Integrated Planning and Development?

Mr. Vice-President: I do not have the answer to that question immediately. The Leader of Government Business has asked that this question be deferred for a further two weeks.

Question, by leave, deferred.

ARRANGEMENT OF BUSINESS

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, I beg to move that we go into Bills Second Reading.

Agreed to.

TELECOMMUNICATIONS BILL

[Fourth Day]

Order read for resuming adjourned debate on question [March 06, 2001]:

That the Bill be now read a second time.

Question again proposed.

Sen. Martin Daly: Mr. Vice-President, at the appropriate stage in this debate, I will make a formal declaration of my interest in relation to my professional links to the Telecommunications Services of Trinidad and Tobago. But, I have much ground to cover before I get to the part of this Bill that deals with telecommunications so I just wanted to say that at the outset, and I will do it at the appropriate stage.

Mr. Vice-President, first of all, may I welcome you to the Chair for what I believe is your first full session. It gives me great pleasure to see you there, [*Desk thumping*] and I am confident you will make the transition without any difficulty since you have sat on both sides of the Senate and now you are sitting in the middle.

Unfortunately, your predecessor left us with a ruling concerning fashion statements, so I am unable to say any more on that subject.

May I also welcome all those who joined the Senate since I last spoke in a debate here. I have absolutely no doubt that they will bring a wealth of experience and learning to the Senate, and I will be saying something in the course of this debate about the general churlishness that is infecting the country and, may I say, I have absolutely no difficulty in welcoming all those who have joined the Senate

since I last spoke in the debate here. Whatever the origins of their coming, they have been sworn in and they hold high office in the country. Their offices deserve respect and we are entitled to treat them as colleagues without taking on the churlish sentiments of others.

It is, perhaps, unfortunate that one of those whom I seek to welcome so warmly should have chosen to enter that particular debate himself and not left it to the graciousness of other Senators to make it plain that they were all welcome. But we live and learn, whether or not it is in relation to attire or other things.

May I also congratulate Sen. Lucky on her appointment as Acting Attorney General. No doubt, she too, in the course of this debate, will make the transition and will help us professionally with some of the difficult points that emerged from this legislation and that we leave behind the ghost of Dr. Williams and things past, because we really have a lot of work to do in this debate.

1.40 p.m.

The Senate has become such a gracious place that while I want to mount a fairly ferocious attack on this Bill, it sounds as though I am beginning an after-dinner speech. I have also to congratulate the Minister, the hon. Ralph Maraj, for the atmosphere of this debate and for the fact that he has allowed us to look at this Bill over a very long period and has not railroaded us in any way.

It is a long time since we have had such an important piece of legislation; where we have been given such ample opportunity, not only to debate the Bill, but to exchange amendments and to speak to one another privately. This can only augur well for the future of the Senate. I hope that nothing in that respect will change. It is certainly a very pleasant contrast to the last Senate and it is also a very pleasant contrast to all that is taking place in the country.

I have stayed silent for quite a long time, deliberately, because I am so turned off by the churlish behaviour of all our leaders in the country. I have been trying to think, in advance of today's debate, why the latitude that the Minister has given us to debate this Bill is so refreshing. I think it is because we now have in the country what I call the snarling tiger approach. That is to say, if we disagree about any issue, we snarl at each other like tigers. You notice I have not chosen lions. That would not be appropriate at this time.

Because as leaders we started this snarling tiger business—and I would not name offices, but everyone knows this snarling tiger business started with the leaders. It is hardly surprising that it is now affecting men of the cloth, Chief

Executive Officers of state enterprises and public companies and Chief Executive Officers or whatever they are, of cable companies. Everybody is throwing his weight around now. If someone criticizes the cable company, it gives him a rate increase. If someone expresses concern about his safety on BWIA, he gets cuss up by the CEO. In fact, it would be said it is the bad old press, but "town" say they are holding pilots physically because they turned back a plane when they were supposed to. Now, what kind of thing is that? I really do not care if the CEO of BWIA chooses to treat with the genuine fears of people by being a snarling tiger, but what does he think it will do for their business?

I took the precaution of speaking with my travel agent and they told me there are many calls and cancellations. So, really, we have to stop the snarling tiger business. I think the spirit in which we have entered this debate, through the kind courtesy of the sitting Minister, is very good. It is very refreshing.

Mr. Vice-President, the first thing I will say about this piece of legislation is that it is completely wrongly named. I do not know whether it is possible to propose an amendment to the title of this Bill. I have not researched it and we do not have research assistance. However, there is absolutely no doubt in my mind it should be called the Telecommunications and Broadcasting Bill. That is why I have a lot to say before we get to the telecommunications section of this Bill. There are clauses in this Bill that, fundamentally—I do not say adversely, I have not gotten there yet—affect the exercise of free speech and free expression in this country. I find it quite worrying that this Bill should be touted exclusively, by most of the speakers on the Government side, as a bill to liberalize the telecommunications sector and there is very little reference to the implications for broadcasting as defined in the Bill.

This Authority—we must make no mistake about it: I say "regulate", it is a neutral word—will regulate broadcasting, which is defined in such a way as to include radio, television and sound. I think that deserves as much attention, if not more, than the telecommunications section of the Bill. I emphasize that even when we get to concessions, this has been defined to include broadcasting services. So many of these provisions that we are focussing on in relation to concessions affect the broadcasting service as well. It may be that some of the provisions in relation to concessions are quite inappropriately worded, having regard to the fact that we are trying to regulate the broadcasting service.

Mr. Vice-President, I do not know whether it is modern drafting practice or if it is something else forced on us by the Wireless Telegraphy Ordinance. I see we

now have preambles to most bills and we have statements of objectives. Quite apart from the fact that this Bill should be called the Telecommunications and Broadcasting Bill, there is absolutely no statement, either in the Preamble or in the objectives section of the Bill, on the government's objective in regulating broadcasting by this Bill. It simply does not say anything.

I have not been able to prepare my amendments in time for today, but among the amendments I will be proposing during the committee stage is an amendment to clause 3—the objectives of the Act—to include as an objective of the Act, "To regulate broadcasting services consistent with the existing constitutional guarantees of free speech, free expression, right to private and family life". I will be introducing that as 3(g).

I am still giving thought on how we can amend the preamble so that we can have some proper statement and, since it affects free speech, I will be bold enough to suggest how we can amend the preamble so that the Government can say something fairly benign about its intentions with regard to broadcasting. It cannot be over-emphasized that this Bill has far more far-reaching effects for our society than who will be allowed to get on to TSTT's back, more of which we will hear later. The implications of this Bill, fundamentally affecting free speech as they do, through the provisions dealing with broadcasting, will have a far more long-term effect on the kind of society we have than how many telephone providers we have and how many people can link up to provide software and all the services we have talked about.

The condition of society will be determined by that. It will not be determined by expanding into all these electronic areas that have been touted by previous speakers. I am quite concerned about the fact that the broadcasting philosophy has not been stated. It made sure to say that there has to be a broadcasting code, which the Authority will make sure that you comply with. I will deal with that when I deal with the various sections of the Bill sequentially.

I have many other amendments to propose to the preamble and to the definition section, but I will not bore Senators by saying what they are orally. I will, in due course, submit my amendments in writing. However, I want to make it quite clear as a policy matter that I am concerned about the absence in this Bill of any expression of philosophy or policy relating to broadcasting.

That said, Mr. Vice-President, I propose, because this Bill is so voluminous, to deal with it Part by Part and to offer a contribution on the shape it might take. First of all, in Part II, it sets up the Telecommunications Authority and I simply

want to associate myself with everything that has been said by all of my colleagues in relation to inadequate independence of this Telecommunications Authority. In addition to all that has been said about it, I will address some very, very attractive arguments that have been put by Sens. Moonilal and Als about why the Minister should be in the forefront of the legislation, some of which, but not all of which I accept. However, the important thing is that this Authority affects free speech and there can be absolutely no question in my mind that there cannot be a telecommunications authority, all of whose members are appointed effectively by the Cabinet to oversee free speech. That is quite unacceptable. In due course, I will be proposing an amendment. Of course, we have room to discuss whether it should only be the chairman who is appointed by the President after consultation; whether it is the Chairman and the Deputy Chairman; but there is no doubt that it is not acceptable to put the regulation of free speech under a board appointed by the Cabinet. I do not want the Senate to become a churlish place. Sen. Dr. Moonilal was kind enough to give us a recitation of all the offences against free speech committed by previous regimes. I am strongly tempted to bring his list up to date, but I will not. Anyway, it is the Opposition's business to do it.

1.50 p.m.

Suffice it to say that even he found it necessary to take the media to task because it shows a certain appellation, which was hurtful, but for someone as skilful and as talented as he is, and given the graciousness of Senate, it could readily have been ignored. I certainly would have ignored it.

We definitely have to do an amendment and come to some consensus about how this board is to be appointed. This board is not simply dealing with the commercial business of telecommunications. I want, specially, also to endorse what Sen. Prof. Deosaran has said about having representatives from outside the regular confines of Government, such as the Chamber of Commerce, NATUC and the NGOs. Apart from them bringing some independence to the Authority, they also act as whistle blowers because persons from those organizations would not sit idly by if a telecommunications authority is crazy enough to make some totally politically motivated decision. I think that is also something to be commended and I wish to associate myself with those provisions.

Interestingly enough—and this is by way of emphasis, still dealing with the part that establishes the Authority, we have on page 12, clause 18, what its functions are. I have already indicated that I would be proposing an amendment there to deal with broadcasting. It is interesting, however, that in relation to

broadcasting, one of the functions in the Authority, 18(1)(b) is to classify telecommunications networks and services and various other things. They are also going to classify broadcasting services, if I read 18(1)(b) correctly. I do not quite know what that means. Are they going to classify them as friendly or hostile? I do not quite know what that means. That just shows the amount of work we have to do on this Bill to make sure that the dual role of this Authority is properly set out.

It goes without saying that I identify with the protest against clause 19 that that should be confined to policy directions and I will say a bit more about that when I come to say something more about the Authority.

I notice that the word "transparency" finds its way into the Preamble and I would be saying something about that in due course. If we could come to Part III, which begins on page 15, there we have set out a host of things relating to the concessions and again I emphasize in 21(1) that concession includes:

> "No person should operate a…broadcasting service, without a concession granted by the Minister."

I will not accept, as I have said, that free speech should be regulated by the Cabinet or a Minister. We would have the appropriate amendments in due course.

Then, Mr. Vice-President, broadcasting appears again in clause 23 on page 16, that we are going to have a broadcasting code. I know that later on that is subject to affirmative resolution and so on, but I would like to ask this Minister to hark back to our days when we tried to keep TTT free and ask: Why do we have to have a broadcasting code at all? Are we still in the 19th Century where we are going to cover the legs of pianos because they may offend ladies? Are we still in the age of bathing costumes down to the shins? What purpose would broadcasting serve, apart from being a code or apart from being completely paternalistic? How will it add to the remedies that citizens could obtain by means of libel, defamation and other things? In any event—I nearly used an inappropriate local expression—this is turning back the sea. If it is that you do not want people to see things that are immoral, sexy and salacious, or to see linen shirts, which they might then introduce into the Parliament of Trinidad and Tobago, how are you going to stop them from seeing it on the Internet? It is completely pointless. Not only are you going to have some kind of prohibition, which never works; it did not work for liquor, much more experienced persons than myself are saying that it is not working for drugs, and it is certainly not going to work in the area of salacious material, which is so widely available outside of the broadcast networks which will come under the control of this Authority.

I do not think, therefore, that we should bother to have a broadcast code at all. I am quite sure the purpose of the broadcast code—and I am sorry that Sen. Prof. Deosaran is not here because he made a plea for the existing, whatever they are called, Telecommunications Divisions and he asked what sin have they committed. In my mind I can answer that question: they are always calling for people's tapes, this radio station tape and this TV station tape. That is what this broadcasting code is for, it is to protect the ego of politicians—nobody in this room, or course, we are just speaking generally—and to intimidate people, not necessarily by taking any follow-through action but you know you have a broadcast and the next morning they send for the tapes. Whatever is said has an intimidating effect on people who have to operate broadcasting services. It is about as traumatic as the police taking you off the plane to search for a bomb and then you are told that this is all bad-mouthing.

We have a serious industrial dispute at BWIA and somebody better get down to conciliation. I must point out, however, that we have forgotten all about conciliation in this country. We have forgotten all about healing. We have forgotten all about give and take. If the Government or anybody else has a problem with the output of a broadcast media, first of all, if they are in the private sector they can do what they do all of the time, which is to cancel their advertising to punish you. I was once punished by a private sector organization for something I said in Parliament. I am still alive and still eating. If you have a problem with the output of a broadcasting service, what is wrong with a little conciliation? What is wrong with a little alternative resolution, which we are preaching in so many other areas of life? I am totally against having a broadcasting code at all and I suspect outside of his office the Minister and I would probably find common ground as we did many years ago.

Mr. Vice-President, then we come to the vexed question—so let me leave the business of broadcasting now—of what is stated in the Preamble. It is quite amazing the statement, it says in the second paragraph of the Preamble:

> "And whereas it is appropriate that an Authority be established with transparent regulatory processes…

And now this is the critical thing.

> "…to guide the sector's transformation from virtual monopoly, in which Telecommunications Services of Trinidad and Tobago is the principal provider of telecommunications services, to a competitive environment, to monitor and regulate the sector so transformed and in particular, to prevent anti-competitive practices:

And whereas, in order to achieve these stated goals, it is necessary to repeal the existing, outdated legislation and enact new legislation, as hereunder proposed:"

That is a clear statement to anyone reading this that we would expect to find, in this legislation, the guide. The transparent regulatory processes that will guide the sector's transformation. They are not here. None of those guides are here. Everything is: it will be done by the Authority; it will be done by the Minister; this will happen by regulation. There is not one single detailed guide in this Bill about how this transformation is to take place under the provisions of this Bill.

2.00 p.m.

It is just the broadest possible regulatory framework and it leaves everything up to the Authority and the Minister to work out later and that has huge dangers for us, which I shall seek to point out. There is not one, single detailed guide in here, so the Preamble itself is completely misleading because it says that we are passing this legislation to provide guides for the transformation but the guides simply are not in here, except in the broadest possible terms. So against that background now let us look at how this transformation is to take place. We are still on Part III dealing with concessions and we come to the major question of interconnection on page 19, clause 25.

Now, Mr. Vice-President, may I state formally for the record that my firm is one of TSTT's principal advisors and from time to time we give advice on matters concerning the Telephone Act and related matters. We have not been engaged, professionally, in any comments on this Bill. May I also say that as a Senator it makes no difference to me whether you keep TSTT's monopoly, modify it or you kill TSTT. I have no difficulty with that as a Senator but I want to debate it. Apart from the mention of TSTT in the Preamble, it is never mentioned in the Bill again and there is nothing in this Bill that tells us what is the Government's position with regard to TSTT.

Now, this is not an idle question. It is a fundamentally important question for three reasons. First of all, in the absence of any specific guides in the legislation—and this is for me a perfectly acceptable alternative—or alternatively, policy documents accompanying this legislation. In the absence of either specific guides in the legislation or policy documents accompanying the legislation, we have no idea how the very broad-brush provisions of this Bill are going to be implemented and what effect they are going to have on TSTT.

Now, let me repeat, I care not whether it is the Government's policy to keep TSTT alive, to modify TSTT or to kill it. What I want to know is, what is the—we

want a clear statement of the Government's intention because we need to debate it. Why do we need to debate it? We need to debate it, first of all, because TSTT is a state enterprise in which Government holds shares in trust for the people of Trinidad and Tobago. Secondly, and even more outrageously, in the absence of any policy statement, we have just had an initial public offering in which the public has been invited to buy shares in NEL and one of the subject matters of NEL is this very company. So you have gone out there and seduced and induced people to put their money into NEL and no one has any idea what is to be the future of one of the component parts of NEL.

Remember, the big selling point of NEL was that all of its component parts, all of the companies that went in there, were profitable companies. "Come and see me because I am profitable." However, now people have invested in NEL, we have absolutely no idea what is going to be done with one of the elements in NEL and that is wrong. What is so amusing—it is ironic—is that throughout the Part, which I will now examine, we talk about a dominant operator in this very neutral way as though there is not one in the market already. "This is what a dominant operator will have to do", as though there is not one there. I entirely agree with Sen. Prof. Ramchand that TSTT is the ghost at this feast. So we talk very benignly about a dominant operator and what a dominant operator will have to do and we have no policy statement about what is going to happen about an existing investment of the people of Trinidad and Tobago. That is my concern as a Senator and I am entitled to raise it.

Now, as everybody knows, it is very unlikely—and I think Sen. King made the point very forcibly about the future of TSTT, and she even got it covered after the tea break. It must have been the colour—[*Laughter*] Anyway, the important thing about it is that there is no statement about the future and it is very unlikely, in the small market that Sen. King has described, that another dominant service provider is coming in here. What is going to happen here is you already have the dominant service provider and everybody "jus' want to plug een" and they are using a lot of big words here but what they are talking about—thank you, Sen. Dr. Mc Kenzie, piggyback. Everybody is coming to "plug een" to the existing dominant service provider.

Now, what will that mean? That is what interconnection is. I must allow you to use my facilities. It is kind of like allowing you to run an electric wire or sewer pipe across my front yard. So clause 25 says:

> "In addition to the requirements of sections 22 and 24 a concession for a public telecommunications network or a public telecommunications service…"

This is unbelievable outside the Soviet Union, which I think is dismantled:

"…shall include conditions obliging the concessionaire to provide for—"

Now, note very carefully, it is not saying in this legislation what the terms and conditions of this obligation are. It simply says that a concession shall require these things.

So the country will not know, until the concession is granted, what is the Government's policy on interconnection, unless, of course, we get a policy statement accompanying the Bill. We simply do not know because you have all these broad-brush things which the concessionaire has to provide, but we do not know on what terms the concessionaire will have to provide them. All of that is to take place in the future. So under clauses 22, 24 and 25 you have a raft of general statements but we do not know in dollars and cents, we do not know in commercial sense, what all this is going to mean.

Then it says in clause 25(2):

"In respect of a concessionaire's obligations pursuant to subsection (1), the Authority shall require a concessionaire to—

(a) comply with guidelines…"

Now, my point is very simply this, Mr. Vice-President. Unless we know, prior to any concession being granted, on what terms and conditions new entrants to the market are going to be permitted or given, this liberalization is completely manipulable by the Government and/or the Minister and/or the Authority. We need to know upfront what are the rules of the game; what will be the terms and conditions of these concessions; what effect will it have on the people's investment in the existing dominant service provider; what effect, if any, it will have on the shareholders of NEL. We need to know that upfront so that we can debate it. I repeat *ad nauseam*, it matters not to me as a Senator what the Government's intention is with regard to TSTT—I simply do not care. However, we need to know in order to debate it and avoid the extreme manipulation that can take place in the granting of these concessions unless the detailed rules are known upfront.

Now, insofar as Sen. Als and Sen. Dr. Moonilal and, to some extent, Sen. King have all advocated that the Minister must be the one to grant the licence, I do not have a problem with that. That is within his executive authority. That is why people elect governments and that is why governments carry executive authority. What I am concerned about, as all the Independent Senators who have

preceded me have said, is that we very carefully in committee sort out, you know, like into spades and diamonds and clubs, what are the appropriate responsibilities for the Minister without any overseer and what are the appropriate responsibilities for the Authority, equally without any overseer.

This is because, in this Bill you have a bundle of responsibility, some of which is clearly executive and I have no problem in them residing with a Minister because I belong to the school of thought that says: if political mistakes take place, then people must have political solutions. Going in the court and all this business and putting this one to oversee that one makes no sense. If you entrust people with executive authority, you do not like how they handle authority: you deal with them at the polls. So I do not agree with them about piling up of responsibilities, but the point has already been made.

This Authority does not only have executive responsibility, it has regulatory responsibility first of all. Sen. King has made the point extremely forcibly that insofar as, for example, the Authority has to interface with consumers in its regulatory capacity, it clearly cannot be subject to directions from the Government, because then it is not an impartial regulator or arbitrator of disputes between consumers and the people providing the services. Insofar as executive authority is to be exercised, give it to the Minister—I have no problem with that—but insofar as the regulatory functions of the Authority are concerned, they must have autonomy. They must have near-complete autonomy because there they are acting as an umpire or an arbitrator between consumers and the providers of the service and they cannot be under the thumb of the Government.

I think everybody knows by now, when I speak of the government, I speak of all governments, not any particular one in power. Also, there are quasi-judicial functions that have to be performed by this Authority and, in particular, still on clause 25, you have under 25(2)(h):

> "submit to the Authority for prompt resolution, in accordance with such procedures as the Authority may adopt, any disputes that may arise between concessionaires relating to any aspect of interconnection, including the failure to conclude an agreement pursuant to paragraph (e)…"

Now, what all of that means is perfectly obvious. If a concessionaire and the dominant service provider—who we very coyly do not name in the document other than the Preamble—cannot come to an agreement about interconnection, that is to say, the dominant service provider unreasonably wants $100,000 to plug in and the new entrant wants to spend a dollar to plug in, who is supposed to deal

with this? The Authority. Now, that is a very important function. It is clearly a quasi-judicial function.

Under subclause (i) you have to submit to any decision rendered by the Authority under subclause (h) and so on, and then there are all these other things about dialing parity and so on which time does not permit me to go into, disaggregation and all these different things. Now, how can a concessionaire and the dominant service provider have a dispute and submit that to binding arbitration—what is almost binding arbitration—by the Authority in its quasi-judicial function? It cannot work because it would not be impartial, and worse—and I do not say it about this Government. I deal with the matter as a matter of principle.

In countries far larger than ours there is a well-known phenomenon of crony capitalism. So a capitalist crony of the government, not this Government, any government who has a dispute with the dominant service provider in which, incidentally, the government also owns the majority shares, has to submit to an arbitrator, a quasi-judge, who is under the thumb of the government. How could that make sense? For those of you who play "all foes", that is like marking the deck. That cannot make any sense.

So I have no quarrel—in fact I was—what is the word? It was very enlightening to hear the contributions of Sen. Als and Sen. Moonilal on defence of leaving executive power in the hands of the Minister, but that does not solve this problem. You have to cut this up into three distinct suits: spades diamonds and whatever, hearts. You have to cut them up into three distinct suits and provide for them separately and I assume that we have pretty much persuaded the Government on that and we will deal with that in committee. So it is a very important issue, otherwise you can always have manipulation. Every dispute or interface that goes to the Authority you can have manipulation if the Authority is under the thumb of the Government. It just does not make any sense.

I also, Mr. Vice-President, at the risk of repetition, urge the Government to make some policy statement that gives us some specifics about interconnection, disaggregation and all these other things and do not simply leave it to the future work of the Minister, the Authority, anybody else. Those comments apply pretty nearly right through Part III dealing with concessions. We need—well I suppose that is the form of disaggregation. We need to disaggregate all these things. Then you have the whole Part IV—licences, spectrum management and numbering. All of those, so far as I am concerned, are details which have to be worked out in this very welcome move.

2.15 p.m.

Sen. McKenzie spoke certainly for me and for many of us. Nobody has any problem with the liberalization of the telecommunications sector. Any of us who have to be in contact overseas, when we get those telephone bills, it really is quite worrying. The fees for the university and the fees for the telephone bills are almost the same, and I think the Minister of Finance will support me on that.

Nobody is saying to protect the monopoly. All we are saying is tell us up front, in more specific detail, the terms and conditions under which they are dismantling, and do not leave it to people in smoke-filled rooms—well we cannot smoke in Government offices anymore, so, in back rooms—to decide on some case by case basis whether one is going to be allowed to rape the dominant service provider, or whether the dominant service provider is going to be allowed to rape the new entrant, depending, of course, on a host of things, including political considerations.

From that point of view, this Bill is simply incomplete because it does not have the provisions in it or, alternatively, there has been no policy statement. I am quite dissatisfied with the telecommunications part of this Bill for the reasons which I have said.

If I could deal with a few other matters, we are really not far apart. The Als/Moonilal axis and the axis over here are not very far apart. I should say thinking because axis is not a very good word. I apologize to you, Sir. Our thinking is not very far apart. We just need to get together in committee to decide how we are going to reapportion all of these responsibilities, but none of that is going to help us with the much more worrying situation where the liberalization of this industry would be subject to extreme manipulation at very high prices. We only have to look and see the—I suppose shaft is not a parliamentary word—difficulties we are having with our cable subscriptions.

Mr. Vice-President, I am concerned about the broadcasting section for the reasons I have said, and I am concerned about the telecommunications section for the reasons I have said. I think the Government has to openly acknowledge, other than in the Preamble, that there is already a dominant service provider in the field. If the dominant service provider is incompetent, the Government must say so and say what its plans are. If it is digging out people's eyes with its charges, then the Government must say so and say what its plans are and how these things are to be dealt with.

We hear a lot of talk about how things take so long in the courts. We are just making more work for the courts when we pass legislation like this. Everybody gets up and complains about how long it takes to take a matter through the courts and how expensive it is. I had the experience of going across the road to the court the other day in another capacity, Mr. Vice-President, to do what, in the old days, would have been a reasonably high profile commercial case. There were six courts sitting. Four of them were doing political cases and everybody else was running around and saying: We cannot get a judge to try our case. This is going to be the same thing. Remember, we already had a cellular judicial review which did not go so well.

Really, if we can deal with these problems now, we would have far fewer challenges, and one of the things we have not come to terms with—I really urge this based on a lot of professional experience—is because people have become so suspicious of the system and the contact system, every time somebody bids for Government work or a Government project, and they do not get it, they are always worried, suspicious and disappointed. Those who have the money embark sometimes on quite hopeless litigation in the hope of getting a stay or an injunction and forcing the Government to give them something as a consolation prize.

That is not a good way to run an economy. I predict that these political cases are going to cost the country between $60 million to $100 million if they go the distance. Is that a good thing? That is like really playing poker. We need to deal with these things, otherwise every disappointed concessionaire is going to be running to the courts, and that is a complete waste of time, manpower and money, which could be better spent if we were more obvious—I am not so sure about the word transparent.

Mr. Vice-President, may I say that I have adopted a policy a long time ago for myself that if there is a dispute about whether an Act should be passed by a three-fifths majority, that dispute must be carried across the road to the court. Nevertheless, from time to time, Sen. Prof. Deosaran and others have made the point that there are some things in here that one questions whether they would be of value if they are passed by a special majority. I am not putting it one way or the other. I do not quite see how one is going to oblige an existing concessionaire to do something unless there is some law that takes us past the due process clause. I do not know how we are going to do it, but strange things happen every day.

There is another part of this legislation, Mr. Vice-President, that offends me. The matter was first raised by one of my colleagues, and this has to do with

telephone tapping. We need some enlightenment here. In Part IX at page 41, we have a series of offences. Now, we do not have research assistants. As far as I was able to do, starting at 5.30 this morning, I have not been able to find some of these offences in any other legislation. Some of them appear to me to be new. I do not know where they have been taken from. That is another thing. Not that I accept that other people's models are good, but we have not been told anything about what this is modeled on. We had a piece of legislation sometime ago that was dreamt up by some American.

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. M. Daly: When we get to Part IX, I do not know what the model is for this, but I think it is Sen. Prof. Deosaran or Sen. King that raised 65(e):

"A person who knowingly—

(e) intercepts, attempts to intercept or procures another person to intercept, without the authorisation of the provider or user, or otherwise obtains, attempts to obtain, or procures another to obtain, unlawful access to any communication unless such action is taken in the interests of national security and at the request of the Minister with responsibility for national security;"

Who is that, by the way? Right this minute. Do you know?

I have a big problem with clause 65(e). First of all, I am not aware—I speak always subject to correction. We have no research assistants. I am not aware that we have any legislation right now that permits the provider of a telephone service—let us be simple—or user of a telephone service to consent to a third party obtaining access to communication. I am not aware that that is permitted now. If, of course, we pass this Bill by a simple majority, that is unsustainable because it would be creating a new infringement of the fundamental rights portion of the Constitution.

Of course, if the Government accepts that we should pass this by a special majority and we did, of course I could not vote for "I", because I would not agree with this in any case. What is worse is the signal it sends. Somehow or other, I

really have a big problem with 65(e) unless someone can show me where it came from and how it is justified. I have a big problem. If I like everything else in this Bill, I have a big problem with clause 65(e). Why am I agreeing to the provider of the telephone service authorizing a third party to obtain access to my communications?

We know this is very disastrous for princes when they are talking to their girlfriends, but on a much more serious note, this is a serious invasion of one's privacy. Privacy does not always mean that people have bad things to hide. Sometimes they have good things to hide. Somebody might have just had something good happen to him in business and he is telling his son abroad about it. He might have been promised a ministerial appointment but not yet got it, but he is sensitizing his son abroad that such a thing is in the pipeline, and people are overhearing this, or someone can consent to this. I have a big problem with this and I cannot agree to it.

I am also conditioned about the words:

> "…unless such action is taken in the interests of national security and at the request of the Minister with responsibility for national security;"

I dare say our Acting Attorney General will enlighten us. In fact, I hope she is going to tell us a whole host of things about the Government's policy on telephone tappings, since that has become a matter of controversy, another shouting match, another snarling tiger match between two officials about whether they should tap a man's telephone on Mucurapo Road or not. Just tell us what is the law. There are two people snarling at each other about whether to tap a man's telephone on Mucurapo Road. How does that enlighten us? I assume we will hear something about this.

As far as I know, these words, "unless such action is taken in the interests of national security and at the request of the Minister with responsibility for national security", are perfectly respectable, insofar as they reflect the general common-law position about telephone tapping. I am not so sure that that position stands, given the fundamental rights sections of our Constitution, but I am not dealing with legal issues today. I am concerned about policy.

If the drafters put that in there, it is because somebody believes that right now it is permissible to tap people's telephones, so they are keeping that as an exception because they are doing it now. The Government has to tell us if they are doing it now! They do not have to tell us whose telephones they are tapping, but they have to tell us if they are doing it now, because this is a clear indication that

they want to except a practice of tapping people's telephones at the request of the Minister of National Security.

Whether it collides with the Constitution or not is not the point. The fact that they need to create this exception suggests that they are "macoing" now, and we need to know if they are "macoing" us now. Suppose the hon. Minister and I have an informal conversation about the Bill and how we might shape the Bill and bring it to a proper conclusion, and instead of doing it here, suppose we want to have that conversation on the telephone?

As far as I know, he still lives in San Fernando and I want to call him about it. We may wish to say things off the record. We are not bad talking anybody. I might say, "Boy, you think we should have a broadcasting code? He might say, "Well you know long time when I was a 'you' in TTT, I did not believe in no broadcast code." Then some political zealot could be listening and could go and report him and say that "He hear that Maraj and Daly agreeing to get rid of the broadcasting code!" Then the whole value of an informal conversation when we feel each other out in parliamentary processes is lost because some "fella"—I think it is the Twin Towers does it—is "macoing" the conversation between me and him.

Sen. Ahmed: Mr. Vice-President, I believe that the language is unparliamentary.

Mr. Vice-President: I think for purposes of this debate, I will allow the Senator.

Sen. M. Daly: Thank you, Mr. Vice-President. I thought I was being so good. [*Laughter*] I am quite hurt that I should be identified with the tigers. All I am saying is that it is a very bad signal and we need to know whether the Ministry of National Security has a telephone tapping policy.

The last thing I would like to comment on, specifically, Mr. Vice-President, is the transitional provisions. They are bizarre. At clause 85, and in particular, clause 85(9), it says:

> "The Trinidad and Tobago Telephone Act is repealed, with all rights and obligations thereunder remaining in force for one year or such longer period as the Minister may determine upon the advice and recommendation of the Authority, or until the Company (as defined in such Act), having applied for a concession pursuant to Part III of this Act, is granted a concession hereunder, whichever is earlier."

That is an indirect mention of TSTT, "the Company". Maybe "the Company" is defined as TSTT. What is bizarre about this is, what does this mean? I know what it means. All right, we are getting rid of the Telephone Act, but any right, such as the exclusive right to internal telephonic communications, will remain for a certain period. *[Interruption]* Is Sen. Selwyn John rising to make a point?

Mr. Vice-President: Members of the public, could we have some silence whilst Sen. Daly is on his feet? Thank you very much.

Sen. M. Daly: Actually, the point of order that was raised today came from his old seat, so you see, we have tradition in this country. [*Laughter*] "Or such longer period as the Minister may determine on the advice and recommendation of the Authority". Let me be really sensitive. I will not use a violent term.

2.30 p.m.

This means that the Minister and/or the Authority will determine how much longer the Telecommunication Services of Trinidad and Tobago's heart can beat, but they do not give us any guidelines. It just tells us that they will determine for such a longer period or until the company, having applied for a concession, gets it. If they have a big dispute over the people who are coming to plug in—[*Interruption*] I do not know why you drew my attention then, Sen. Gillette, it was quite accidental. If there is a dispute between TSTT and the people who are coming to plug in, and that dispute has to go to the Authority and it takes time to determine, it takes more than a year, plus all the regulations we have to get on anything, then this company is completely at the mercy of the Minister as to how long its heart continues to beat. That also typifies—[*Interruption*]

Sen. Gillette: Are you talking about the interconnect again?

Sen. M. Daly: No, Sir, I am talking about the exclusive right that the telephone company presently enjoys under the Telephone Act. Under section 4 of the Trinidad and Tobago Telephone Act the existing dominant service provider has an exclusive right to provide a telephone service, at least, nationally. It is disputed whether they can provide it internationally, the better view is that they can.

They have such an exclusive right and, therefore, if the rights and obligations granted under the Act continue in force, notwithstanding it is repealed, it means that the heartbeat of the company, which is an exclusive right to provide a telephone service nationally, remains for a year or for such longer period as the Minister may determine. I am not speaking about interconnect. I am speaking about the existing exclusive rights of the dominant service provider.

Mr. Vice-President, may I summarize: I congratulate the Government. Let me put it in a positive form: I congratulate the Government for seeking to free us from a single provider of telecommunication services, but I abhor the fact that we are doing it by a means which keeps us in the dark as to the real terms and conditions, the commercial terms and conditions on which that liberalization will take place. In this particular case because the dominant service provider happens to be a state enterprise in which people have provided money, it becomes even more important to know what is its future. I abhor the fact that we cannot discern that from the Bill, but I nevertheless congratulate the Government for seeking to deal with this.

No doubt, in committee, whether it is a special committee or in our usual way, we will be able to sort these things out. But I am quite disappointed that after all this time and all these foreign consultants that we reputedly had, we are still none the wiser as to what is the Government's policy with regard to interconnection, except these broad-brush strokes.

I think Sen. King who knows about these things from a very learned perspective said—and I would like to repeat what she said, because I think she passed over it rather quickly, and it was after the tea break—that the Bill ignored the methodology of transition. If that means what I think it means, I say, “Hear, hear”. So we got it in before the tea break.

Generally we have a lot of work to do in order to get this liberalization in a form which is not only acceptable but is insulated against the manipulation that can follow. We can only find out what the prospective terms and conditions of concessions are after the concessions are granted.

Thank you.

Sen. Laila Sultan-Khan Valere: Thank you, Mr. Vice-President, for giving me this opportunity to make my contribution. First of all I want to congratulate Sen. Gillian Lucky on her new position. I wish her very well. I think it augurs well for our country that we have such young people who are capable of accepting positions of such responsibility. I wish her all the best. [*Desk thumping*]

This Bill before us has had a great deal of debate. I think the debate has been very comprehensive and very thorough, so I will be brief. I will be supporting some of the comments made by my colleagues, but I would like to also emphasize certain areas that I think are very important. I want to look at the what and the how.

As far as the what is concerned, the objective of this Bill is commendable; it is wonderful; it is long overdue. I must compliment the Government on taking the initiative to put something like this in place, because it is very important, first of all, to keep up with the advances in technology. We need to do that yes, but to bring in healthy competition—and I want to use the word "healthy"—it will definitely mean, if it is healthy competition, that we will have lower prices, better quality of things and a more friendly customer service. We need all these things. I must commend them for putting in place a bill that will have an objective like this. So whatever their plans are I would fully support them.

What concerns me really is the process, how it is going to be done. What are the things that they are going to put in place so we can achieve that objective? When the hon. Minister made his contribution in introducing this Bill he emphasized certain words like transparency, “There is going to be transparency in achieving this; there is going to be fair play, a level playing field,” things like that. He kept saying that very, very often. That gave me a certain sense of assurance that that was the procedure, and we were going to be following some underlying principles, fundamental principles of democracy that we hold dear in this country, because any process that we enter upon must be guided by the fundamental principles of democracy that we hold dear. Words like transparency, fair play and so on, made me feel assured that this hon. Minister was very committed to these fundamental principles of democracy.

I think that, perhaps, this is why he may not have seen that there would be any dangers in the absolute wide-ranging powers that were assigned to the Minister. Perhaps, that is why he did not anticipate all the dangers and problems that could come when you assign these absolute wide-ranging powers. That is what concerns me, these wide-ranging powers. Many other Senators emphasized the point that the Minister had absolute power. It is important for us to understand, too, that this Bill is not for now; this Bill is for the future.

Perhaps, with this hon. Minister, he will ensure that there is transparency and he would use his absolute powers to ensure transparency, fair play and a level playing field; I do not doubt that, but then ministers change, governments change. So what happens if we have another minister who is not committed to fair play and transparency? Heaven help us then, because we are going to have a minister who is not committed to these fundamental principles, introducing things that are really undemocratic; that is when we may have a dictatorship. We have to be very, very careful that whatever we agree to in this Parliament will be something that we can use in the future and would be relevant and appropriate in the future, when there is change or a change of government, and the players change.

Then we must also take into consideration another fact: human beings are fallible: we are not perfect yet so we will make serious mistakes sometimes when we are making decisions; we must be very wise. Whenever we are formulating a process and making laws that are going to affect the whole country, all the citizens, we must ensure that there are checks and balances in place that will ensure that the decision making really has fair play and transparency in it. Unless there are checks and balances you are not going to get transparency.

I am concerned about the few checks and balances in this whole set up, in the whole process, in what is established here. It is very dangerous, in any case, to have one person with all this absolute and wide-ranging power, so we have to look at the checks and balances.

I would really like to recommend that all the areas which involve the powers of the Minister be revisited and redrafted, especially when it comes to the granting of concessions. I do not want to go through all the areas here, but I want to pick out just one or two. For instance, Part III, clause 21(3) under "Concessions" reads:

> “"The Minister shall not be bound to accept the advice or any part thereof rendered by the Authority in accordance with this section.”

No satisfactory reasons; well, that concerns me very much. The tone of it concerns me very much. The wording of it concerns me very much, “not be bound”. That for me resurrects the colonial past. What it is saying here is that we are still there. We are trying to become technologically advanced yet we are using procedures that are very antiquated, to say the least, which suggest that the Minister has the same "boss man" mentality. We are not attitudinally and behaviourally advanced at all. We are still back in colonial days, even the words "not be bound",—and that concerns me. So what is the point of all this technological advancement when attitudinally and behaviourally we are still stuck in the old colonial prison? We are still enslaved with the past thinking. We are not going anywhere. How could that be advancement? I am concerned about that.

As far as I am concerned I had a suggestion on how that clause could be changed, but when I thought about it the whole clause should be deleted. It has no place if we are talking about advancement. For all the clauses like that, the tone has to be different; checks and balances must be in place; that is very important.

There are other areas that concern me too, even the composition of the Authority and the board. How are we going to get checks and balances if the choice of members on the board and the Authority are all thinking politically in one way? We are going to get a very skewed decision. It is not going to be

balanced. It is not going to be fair play. It is not going to be transparent because they are all of the same ilk. You are not going to get independent thinking or any checks and balances. So that is another area that concerns me.

I was thinking, as far as checks and balances go, the way I understand it is that you have the Minister, the board and the Authority; these three are the ones who are really responsible for driving the process. How are we going to have checks and balances? There must be something structured into this whole Bill that would help them to act as checks and balances of each other; we need that.

2.45 p.m.

I do not see that that would be a difficulty, that we can have these three parties acting as checks and balances. We need to have that structured in, not only for now, but for the future. It is very important that we ensure—and I feel too, that when the hon. Minister made his presentation, he said that this was part of a work in progress. That tells me that the Minister is open-minded, that this is not cast in concrete and that he will be willing to work to make amendments. So that this will be transparent and we would be able to get the fair play that he wants. We are not going to get it in this.

I agree with Sen. Daly when he said that it is too vague, it is not specific enough, and because of that it is manipulable. Well, I think the manipulability is going to be the danger. The way this whole process is set up right now, I feel it is set up to fail. It is definitely not going to be one that is going to give us transparency, fair play, and a level playing field and as we all know, the process will greatly determine the quality of the end product. So we have to ensure that the process is one that is in keeping with the end product.

I will close now, I just wanted to make this point. I did not want to go into all the details, I think it is very thorough, but I wanted to make my point that we have to revisit and redraft the process. We have to look at it in committee stage, or however we do it, but we must work together to make some wise changes so that the appropriate checks and balances are in place and the procedure is very clear to everyone; and if it is not clear now, we will never get transparency. Once the amendments are made and are agreed to, I will fully support this Bill because I can see it will benefit all the citizens of this country.

Thank you.

The Acting Attorney General and Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Gillian Lucky): Thank you, Mr. Vice-President, and permit me, as I begin, to thank all those persons who, during this debate have offered their congratulations to me in my acting capacity as the Attorney General of Trinidad and Tobago. I wish to thank them for the confidence that they have reposed in me, I wish to thank God for the continued opportunity to serve my country, and I wish to assure all those who have expressed their congratulations and offered their words of advice, that I remain guided and humbled by the phrase: "To whom much is given, much is expected." I am sure that this afternoon—especially hearing the sterling contribution of Sen. Daly—there is high expectation and I hope that I disappoint no one within this very hallowed Chamber.

Mr. Vice-President, during this debate, there have been several issues that have arisen with which there have been disagreement, but there are some principles with which we all agree. I am sure that we will all agree that we are all human beings sitting here; and I am sure we will also agree that no human being is perfect; and I am sure by extension we will all recognize and acknowledge that human beings are the ones given the task to draft legislation. So that by necessary, logical explanation and expansion, no piece of legislation is ever going to be perfect.

We must aim for perfection, but we must acknowledge that the objective of any piece of legislation, especially this legislation, is to get it right. And how do we get it right? We have been hearing in several contributions, all with great merit, that perhaps we ought to have further consultation, perhaps we ought to take it back to the experts. With the greatest respect, Mr. Vice-President, I say very confidently, that the best form of consultation is taking place right here, right now, and there is no need to take this outside. I can say that with the high degree of confidence with which I am speaking because of the words of the hon. Minister, Ralph Maraj who constantly, in his presentation, and reading of the Bill reminded us, reiterated, stated emphatically, that this is a work in progress and that he was listening intently to every point raised, and there was a commitment on his part that we are going to go back to the legislation, we are going to look at the Bill, examine the provisions, and where there is need, we will revise and revamp.

Mr. Vice-President, it is said that talk is cheap, but when those words have come from the mouth of the hon. Ralph Maraj, and when I can say, and I know as a fact, because I too have been encouraged to revisit, revise and advise. I know

that performance would beat "ol' talk", and this is one place where action will speak louder than words. [*Desk thumping*]

Mr. Vice-President, then at the outset, in synopsis, I say that our position on this side is, we are going to get it right; we are going to listen; and we are going to examine the provisions that have raised concerns. In fact, in my contribution this afternoon, there are certain provisions that cause concerns to several Senators on the other side and on the Independent Bench and I have revisited them, and it is with this view of listening to the concerns and trying to see where there can be consensus that there are certain suggestions that I would make this afternoon. But we must always remain focused so even if legislation will not be perfect, it must be right and we must therefore make sure at all times that we are clear in terms of our policy and our purpose.

It has been said that two heads are better than one, and safety lies in many advisors, but I would say that whereas safety lies in many advisors, there is also a proverb that counteracts that statement and it is: "Too many cooks spoil the broth." At this stage what is necessary—and we are hearing it by various contributions by Senators—that what we need to do—because it is accepted that the Bill in terms of what it purports to do is good—is go through clause by clause and ensure that we are getting it right. The reason for it is that we live in a very vibrant business world and if one could say time is always going to be of the essence we cannot afford, in a business world where legislation such as this Telecommunications Bill is so important, to adopt the attitude that we are going to fine-tune, and we are going to take our time, and we have to make sure we are not rushing. By no means am I saying, Mr. Vice-President, that we ought to rush, but I am saying that we have to get that balancing act correct. We have to ensure that while we are not rushing, we are not allowing ourselves to come to a grinding halt because we are nitpicking and trying to ensure that we are fine-tuning to the extent that we say: listen, let us get more time.

Mr. Vice-President, in a business world, we have to accept that sometimes decisions have to be made very fast. Put yourself in the position of an employer who goes to two of his employees and says: "I need advice, and I need it quickly on an urgent matter." Following this hypothetical situation, one worker says: "I want to make sure that I do all the research and get all the advice, and I go to all the experts, I will not hand in my advice until I have covered every aspect of the ground available on the point." Another worker recognizing the importance says: "Listen, I am not going to be careless, I am not going to be neglectful in my duty, but I recognize that my employer needs this work to be done and he needs this

advice, so I will do the research, hasten the process, but when I hand him that advice, which would be researched and based on a very wide consultative basis, I will still churn some of the issues in my mind which may not have been resolved fully to my own satisfaction, or to the satisfaction of others." I am saying that an employer would prefer the approach of that worker who is saying I am going to do the research, but I recognize I may not get every single thing perfect, but I am leaving my mind open. I am going to hear concerns, resolve certain issues and make sure that at least my employer has the advice.

Mr. Vice-President, I am sure you followed the analogy because what I am trying to say is, this is what this Government has done. Recognizing that we need the legislation, we have had consultation and we are not saying this is the Bill, take it, or leave it. We are saying; "This is the Bill, we have tried to get it right, tell us your concerns and we will come with the necessary amendments where we agree, and we are going to ensure that at the end of the day, we have a common purpose and that is that Trinidad and Tobago is not left behind." What more can someone ask for? That is why I constantly repeat that we have the confidence that the concerns and issues raised in the contributions are not falling on deaf ears.

Mr. Vice-President, a golden thread that has been running through many of the contributions made by Senators on the Opposition and Independent Benches is the concern with respect to the power, what seems to be the absolute power given to the Minister, and the power and functions of the Authority. You may find that I refer to the Authority interchangeably as the board because it will actually be operated by a board.

In some of the contributions we have heard some of the Senators suggest that it would be better to relinquish some of the power from the Minister and invest that power into the board because there is the potential for the Minister to become draconian in the exercise of his power. Some suggestions have been to increase the number of persons on the board; some have been to ensure that there is greater expertise; others have been, let us ensure at the end of the day that it is the board that has all the decision-making process and the regulatory powers. At the end of the day, with the greatest respect, Mr. Vice-President, I say, be it power to the Minister, or to the board, there must and ought to be the highest degree of transparency and accountability because merely taking power from the Minister, or divesting it in the board is not the answer because there have been multiple examples of draconian Ministers as there are equal number of examples of runaway boards and, therefore, to my mind, be it Minister or board, we need to know that whoever has the power is exercising it in a judicious manner and is

acting fairly at all times. That is why one can understand that whatever jurisdiction one looks at, whether it is the Minister having power, or a board or Authority having power, implemented in the legislation are very stringent methods of control.

Sometimes we use the words "transparency" and "accountability" interchangeably, but I see a difference. The word transparency to me means exposure, whereas the word accountability means having so exposed, you are able to explain why you have acted in a particular way. So they move hand in hand, and whoever has the power at the end of the day ensures that there is transparency and accountability so that persons who feel that they have been denied justice would be able to take the necessary action.

3.00 p.m.

Mr. Vice-President, even a board comprised of brilliant people does not automatically mean that the tenets of accountability will be manifest, because at the end of the day brilliant people are often blind instruments of their own destruction. In the same way one might worry—and I would have the same fear—that a minister may abuse his power, or a chairman of a board of authority and his members may equally use their power as tools to cause corruption or contamination. That is why I say, as I end this particular point, that the focus is not merely on who has the power. I am saying that is important—

Mr. Vice-President: May I appeal to Senators, and particularly to those in the public gallery, to switch off their cellular phones. This is the third time since we have begun the sitting that cellular phones have gone off, and it is insensitive for people to continue disrespecting this Chamber. I appeal to all to switch off their cellular phones. *[Desk thumping]*

Sen. The Hon. G. Lucky: Thank you very much, Mr. Vice-President.

Mr. Vice-President, the point is that at the end of the day we have to ensure that proper and stringent methods and measures of control are implemented to ensure transparency and accountability.

I move on to the next point that was raised by Sen. Prof. Deosaran, Sen. Prof. Ramchand and other Senators, concerning the issue of whether this Bill needs to have the special majority. I remember when Sen. Prof. Deosaran was making his contribution, he indicated that the aspect of the Bill that really seems to raise the issue of the need for the constitutional majority was, in fact, clause 50 which deals with the inspectors and the rights given them. The question posed by Sen. Prof.

Deosaran was—and I may not quote it verbatim: If the Bill, with similar provisions, had to be passed with a special majority in 1991, then what is the justification for not doing so now when in the 1991 bill there were also provisions dealing with inspectors and the rights and powers given to them?

I would deal with that very briefly, Mr. Vice-President. In Act 40 of 1991, by virtue of section 44, which consists of three subsections, there are powers granted to inspectors and those powers are contained in five paragraphs listed (a) to (e). Subsection (2) of section 44 went on to state:

"Notwithstanding the provisions of subsection (1)…"

Subsection (1) dealt with the powers granted to the inspectors.

> "an inspector shall not exercise his powers under subsection (1)*(c)* or *(d*) or enter a dwelling-house except upon the warrant of a magistrate issued to him for the purpose and unless he is accompanied by a police officer."

Subsection (3) states:

> "In the case of a mobile station, an inspector may demand entry without a warrant."

Certainly, when one looks at section 44 in that 1991 piece of legislation, one can understand why that particular provision would be enough to mandate that there would be a special majority. Wide powers were given to inspectors, stated in paragraphs (a) to (e), but only in limited circumstances—more specifically, the powers that were stated in paragraphs (c) and (d)—that would be the powers to search where necessary, examine records, seize and take away apparatus and other things. It was only for those powers that a warrant was needed. Now, we look at the provision in the present legislation.

In the present legislation, that is, under clause 50(1), similar powers are given to the inspector, also stated in paragraphs (a) to (e), except that in this instance, there is a change. What is paragraph (e) in the 1991 legislation is, in fact, paragraph (d) in this 2001 piece of legislation. The point is, that in clause 50, where these very wide powers are given, the subclause dealing with the exercise of the powers mandates that the inspector, if he is to exercise his powers stated in paragraphs (c), (d) and (e) of clause 50, must have a warrant. There was actually a widening of that ambit for which an inspector would need a warrant when he was exercising his functions.

At first blush it may appear that the defect is solved, and this is what I mean by the consultative process in this Senate being of tremendous value and not falling on deaf ears. When the point was raised by Sen. Prof. Deosaran, it did not stop there. We examined the legislation and even though there is a widening of the ambit as I explained earlier, I admit, it is still not enough.

Mr. Vice-President, permit me to indicate that as a state prosecutor for eight years, there was a phrase which almost became cliched in the court where we would stand and say, "We act as ministers of justice". That meant that if we saw evidence that was against our case we were mandated and it was in accordance with our oath—and our duty as state prosecutors—to ensure that we pointed it out to the other side and to the court. In the same way, this process that has been endorsed by the hon. Minister, has been acknowledged by several Senators in their contributions, that there is an atmosphere during the debate of this Bill, where we are listening and we are trying to ensure that there is consensus and we are trying to see where we have gone wrong so we can put it right, because we all agree that this legislation is necessary for our country to move forward. It was then I realized, in my view, that for all the powers of the inspector, there ought to be a warrant because these are powers which, when exercised, do impact on the constitutional rights of persons, more specifically, those rights that are contained in section 4 of our Constitution.

It would therefore mean that for the exercise of the powers of the inspector, under clause 50, as stated in paragraphs (a) to (e), the suggestion, I humbly suggest that we ought to consider, is that a warrant be granted for the exercise of all the powers be they (a) to (e). So that the inspector, who is a person chosen by the Authority—that is contained in clause 46—must be suitably qualified and experienced, as an officer, to be a telecommunications inspector. He would then have to go to the court and obtain a warrant. To execute that warrant he would have to go with a police officer and in exercising his powers we would, therefore, be assured that a police officer is present and also that a search warrant has been obtained. I am saying that would cure the problem with respect to clause 50.

Let me make it abundantly clear that it is not a situation of putting the cart before the horse and saying, "We don't want to go the way of special majority so let's cure defects." That has not been the approach of this side, the Government or even my approach in looking at this Bill. It has been, when issues are raised, "Let us go to the section; let us see what the section says; let us visit it, review it and see whether there is need for change; make the change where necessary and then look at the determination, after the change—do we need a special majority"? That

has been the mindset in going to clause 50. Because, surely, citizens of this country and the interests of citizens of the country and the protection of their fundamental rights are of paramount importance to this Government. That is why I make the particular suggestion with respect to clause 50.

3.10 p.m.

There was another reason—and I do not need to go into any great detail—as to why in 1991 there was need for a special majority. I can say quite simply that there was a section that dealt with trees and the power of a public utility to go onto someone's land—provided that there had been no consent they would have to wait for three days in cases of emergency; seven days if there was no emergency—and if they did not receive the consent of the person who had the tree in the yard or on that person's property, they could have gone in and cut down that tree. There is a following subsection that said, well, look, if the tree or part of the tree was not causing any damage they would have had to give adequate compensation. So the whole idea in that section was that officers of the public utility could have gone onto the property and interfered with the tree on that property, or part of the tree. That was another reason, because it deals with the enjoyment of property, that attracted the need for the special majority in 1991. What has been done in the 2001 legislation on the whole issue with respect to trees, is that the concessionaire must obtain the consent of the owner of that tree—it is in clause 35—before cutting down the tree or pruning or trimming it.

Therefore, as I end this point, I say again that the whole atmosphere—and it has been acknowledged by many others in their contributions—of dealing with this Bill is one of, let us see what we have to do to get it right so that this can be legislation that we are proud to be associated with.

The next point which was raised by Sen. Prof. Deosaran—and it was raised today also by Sen. Daly—was the issue with respect to telephone tapping, and that is contained in clause 65(e) of this Bill. I remember when Sen. Prof. Deosaran was dealing with this particular point, he indicated that perhaps the words in clause 65(e) that appear in the second line at page 41 which said, “without the authorisation of the provider or user" ought to be removed. So that what would happen is that the clause would say:

"A person who knowingly—

(e) intercepts, attempts to intercept or procures another person to intercept, or otherwise obtains, attempts to obtain, or procures another person to obtain, unlawful access to any communication unless such action is

taken in the interests of national security and at the request of the Minister with responsibility for national security;"

That would be an offence.

I agree with the hon. Sen. Prof. Deosaran; I am sorry he is not here this afternoon to collect all the thanks that he is getting on our side for pointing these things out. But yes, that phrase ought to be removed. But the removal of the phrase may really not be enough, because we have heard the concerns of Sen. Daly.

What I wish to point out with respect to telephone tapping is that it is not an offence as it stands now. The point that was made by Sen. Prof. Deosaran was that if the clause were left as it was, it would mean that telephone tapping would become illegal, provided you had the authorization of the provider or the user, and that, certainly, is very worrying, not only to Sen. Prof. Deosaran or Sen. Daly, but also to myself, because I pride myself and I have confidence that when I am having telephone conversations, that at least I would be able to share some things that may have degrees of intimacy that I would not like to fall on the wrong ears. By "degree of intimacy" that does not involve any aspect of illegality. But certainly when we say we whisper sweet nothings into somebody's ear, technology has now allowed us not to be physically next to them but on a telephone, and having assumed this acting office, I realize that I have little or no time to be in the physical presence of any human being, except by way of communicating my very intimate messages on the telephone. But having seen this clause, I could assure you that I have, at least, suspended the use of the telephone with respect to the transmission of those types of conversations.

On a very serious note, however, telephone tapping is presently not a criminal offence, and therefore, if this particular phrase, as I indicated, without the authorization of the provider or user, were removed, then it would mean that telephone tapping would only be allowable provided that it was in the interest of national security and at the request of the Minister with responsibility for national security. I do agree that there would be a need to give some sort of policy as to when that particular position would be taken, that telephone tapping would be necessary. In other words, "interest of national security" is a phrase. To me, it really becomes alive when there is some sort of policy or guideline as to how and when it will be used, because, certainly, it could be, and it would be, of great benefit when, for example, police officers have to use telephone tapping for the purposes of crime detection and even crime prevention.

I know time is of the essence and there are many who still want to contribute. I go to the point raised again by Sen. Prof. Deosaran and his concern that legislation—and this legislation—is creating a multiplicity of offences and can the Office of the Director of Public Prosecutions cope, with the reality of their depleting staff, with all these new offences that are being created. Again, I want to point out that there was a time people would say when there are numerous problems, that let us solve one problem at a time. I think we need to have a paradigm change and shift. Instead of saying, let us solve one problem at a time, we have to solve many problems at the same time, and having come from the Office of the Director of Public Prosecutions, I can understand what the depletion of staff is doing to that particular office. I am saying that while our Government is exploring the avenues that would be used and can be implemented to encourage staff to stay in that office and increase the complement of staff, it means that the Government must also go ahead with its legislative agenda, because we cannot put one on hold while we address the other. Problems have to be dealt with simultaneously.

The other issue that was raised was the whole question of the alternative dispute resolution contained in clause 82 of the Bill. I remember Sen. Prof. Deosaran making the point—and I stand corrected but I think it was also Sen. Kangaloo making the point—that alternative dispute resolution is something that is commendable, in that the court must be the ultimate and there must be sufficient resources given to the whole process of ADR as it is called—alternative dispute resolution—so that persons can have their problems dealt with, without the high cost of litigation.

A suggestion, therefore, I think ought to be considered is, in fact, to widen the ambit of matters or issues that can come before the Authority with the view of using the process of ADR. Presently clause 82 mentions only disputes of a kind referred to in clause 25(2)(h). I think that, perhaps, we ought to consider extending clause 25(2)(h) as being one of the disputes that you can come to the Authority with, and include disputes of a kind that would be referred to in clause 18(1)(m), and perhaps an all-encompassing phrase that could be put in suggesting "any other matter that the Authority deems relevant".

I have had the opportunity to look at alternative dispute resolution provisions in other pieces of legislation and what they have done is, they have said, "listen, the Authority can never be a party to any ADR matter", which makes sense, of course, because there must be no bias. They have used that phrase where they have said, "any other matter which the Authority considers appropriate for this

dispute resolution", making it clear that the Authority shall not be a party to any dispute resolution process, and they have gone so far as to even put in a timeframe within which the matter must be resolved, and if it cannot be resolved, then, of course, there is always recourse to the courts of the land.

These are some of the issues that were raised in the contributions by Senators, and it would be impossible, because of time constraints, to deal with every single issue. But what I can say is that the hon. Minister Ralph Maraj has been taking notes of all issues raised and I am confident that when he makes his presentation, we will, in fact, be reminded of the issues raised and there will be an addressing of those issues in a way that we all feel comfortable.

I end by reiterating the position: legislation will never be perfect; it must be right, and with the assistance of all the Senators in this Chamber, the sterling contributions made, the commitment by the Minister that he is going to look at the issues raised and address them, that we are, in fact, getting it right, and we will get it right in a timely fashion.

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

3.20 p.m.

The Minister of Energy and Energy Industries (**Sen. The Hon. Lindsay Gillette**): Mr. Vice-President, I thank you for the opportunity to contribute to this debate on the Telecommunications Bill.

After hearing my colleague on that side talking about snarling tigers, it reminded me of the other night when I was looking at the Grammy Awards, at which *Crouching Tiger and Hidden Dragon* won an award. One of the guys said, "I saw the movie but I did not see any tiger or dragon", but he came back out and said, "The reason for that is because I think the dragon was hidden and the tiger was crouching." So when he got up I was actually looking for the punching tiger but instead I saw a benevolent lion.

First of all, let me congratulate Sen. Lucky on her appointment as Acting Attorney General; let me also congratulate the hon. Ralph Maraj for bringing such an innovative piece of legislation to this honourable Senate. I think that this piece of legislation is probably one of the most important pieces of legislation I have seen for some time. It sets in train a framework whereby the country can go forward in line with the Manifesto of the Government. What we are trying to achieve is a knowledge-based economy and an economy based on intellectual

worth and intellectual capital. One of the first things we have to do, as a Government, is to regulate the telecommunications industry. We are heading in the right direction.

Before becoming a Government Minister, I was very much involved in information technology and telecommunications. As of now, I no longer have any commercial interests in that. I just wanted to declare that.

Following along the lines of my colleague, the Minister of Finance, last week, when he spoke on the Motion on sustainable growth—I think that he hit upon a very important point with respect to people making allegations of Ministers having accounts with $12 million and indictments of Ministers. I think it is important that we act responsibly. If I saw someone next door robbing a house, I do not think I would advertise it. I would go to the person and say: "I think there is a problem, and I think you need to deal with it." That is for your sake, Sen. Montano.

Much has been said about the independence of the Authority. Today, I will try to deal with some of the technical issues that were raised, such as: IP circuitry, circuit switch technology, the universal service obligations, rate re-balancing and one or two of the points that Sen. Martin Daly raised about the dominant supplier.

Before going into that I want to talk a bit about the independence of the Authority. In doing some research, one would realize that St. Lucia, for example, is right now on the verge of negotiating with the OECS countries and with Cable and Wireless. When you look at their Telecommunications Act, it says under clause 7, "Powers of the Minister":

> "The Minister may grant an individual licence; he may grant a class licence; he may grant a frequency authorization in respect of a licence."

So the Minister has certain powers under that Telecommunications Act.

I also looked at the Venezuelan model. The company in Venezuela that regulates the industry is called CONATEL. It says, "All decisions taken by the General Director of CONATEL are revisable by the Minister of Infrastructure or by the Supreme Tribunal of Justice at the option of the interested party".

Even when you look at telecommunications industries around the world, of which the United States probably has one of the most modern forms of regulation, you will see recently where the Federal Communications Commission will be headed by Michael Powell, the son of the Secretary of State, Colin Powell. President George W. Bush named Powell as Kennard's successor on Monday in one of the first official acts of his new administration.

The telecommunications industry is very sensitive because it sets in tune the future technologies of any country. It almost emulates, in a certain way, the energy industry, of which I am now Minister. Let me explain what I mean by that. When we talk of downstream industries in the energy sector, one looks at methanol and ethanol. One looks to go into the downstream industries and there are huge investments coming into those industries. People have been calling and asking, where are the downstream industries of the energy sector? Where are the industries that will allow entrepreneurs who can invest $5 million or $10 million to contribute towards the energy sector? We have been searching for those things. I think by an ethylene complex, as the Minister of Finance said last week, or even gas to liquids plants, we will start to see those downstream industries developed.

The telecommunications industry exactly mirrors the energy sector. By that I mean, where are the downstream industries of telecommunications? If you look at wired services, which is what TSTT has right now; or wireless services, in each segment of the market you can go into data services. That is a huge business. You can go into video services; you can go into internet services. Assuming one goes into Internet services, further downstream we can have engineers design and do portals and create that knowledge-economy that is needed.

Further downstream of that you can further create the intellectual virtual office whereby telecommunications is affordable to anyone. Then you have First World countries coming here and relocating offices to have their data centres offshore because of telecommunications costs. It goes downstream, downstream, downstream.

There was a survey done by Price Waterhouse Coopers that looks at the investments in the various industries. It said that the Latin American region had $8.9 billion of investments in energy for the year 2000 and second to that was telecommunications with $5.4 billion. Every thing else pales in comparison to these two industries.

I will talk a bit now about universal service obligations and I am going to try to cover as much as possible, because it really is an issue. Many of the things I have spoken about relate to universal service and rate re-balancing, and price-cap regulations. What I will try to do is to give an idea of what is happening in the world today and where we are going as a country with respect to those particular types of services.

If you read Oftel, which is the regulatory body in London, they captured it very nicely in terms of the description of universal services and it says:

> "Historically, universal service has been founded on the basic principle that the majority of consumers who use a telecom service can afford to cross-subsidize limited basic needs of the small minority that might otherwise miss out. However, that principle does not translate easily to the provision of expensive, new technologies at affordable prices. At least in the early stages of market development."

In the old days, monopolies were given monopoly status throughout the world. It was felt that to have universal service obligations—which is a telephone in each home—we had to subsidize those services because there were areas that were very dense, and an incumbent supplier would come into those territories and build out the most lucrative areas first and not build out the other areas. Hence there would be a disparity in the way telecommunications was distributed throughout the country. So governments would say, "Listen, you are allowed to cross-subsidize universal service, especially international calls, to build out your less attractive income areas."

That was the idea of the universal service obligation. However, when you look at the whole profile of the telecommunications sector within the last seven or eight years, no longer are we talking about voice services because since 1990—1994 there was something that came upon us suddenly, which is the Internet. If I ask, how many lines do you have in your home—it is no longer one line for voice services. Some have two lines and some have three lines and those second and third lines are for Internet services or fax services. So you have to investigate thoroughly the idea of cross-subsidization of international call tariffs into your local system because you have the facility of the public network passing outside your home and you can access that public network and get additional line capacity.

3.30 p.m.

You have to be careful with respect to that. In the context of what the hon. Senator spoke about, Telecommunications Services Trinidad and Tobago (TSTT) is committed to 196,000 lines over the next four to six years. Presently, we have a teledensity of 20; that is 20 homes for every 100 persons that have lines. When I compare countries such as Barbados with 42 per cent, Antigua and Barbuda with 46 per cent and St. Lucia with 26 per cent, I ask the question: Why do we not have better or more increased penetrations? How were we to guarantee that the subsidized rate from the international calling was really going towards our universal service and billing out our area? Why are we so far behind the other countries? When one looks at the rate re-balancing which used to be 42 cents—I

will talk about that a little later on—and it is now down to 19 cents, now they are claiming that they will guarantee 196,000 more lines or voice services over the next five or six years. I do not understand that rationale at all.

As a matter of fact, the whole concept of universal service is fast changing. It is being moved into something called universal access which allows every person in whatever part of a country to have access to a public service telephone network. That could be accessed either by way of voice services, data services, broad band services or Internet services. It is widening. As a country, we have to determine what we are going to describe as universal service obligations to our population. In the Bill, we have described it widely and tried to cover as much as possible, the universal service obligations of the various people who would be competing in the country.

Some years ago, when British Telecom deregulated their industry service, Oftel, who was the person to regulate the telecommunications industry at that point in time, said that a number of practical considerations had to come into play. They recognized that because British Telecom already had the whole infrastructure in place, that they were probably the best suited to provide universal service obligations. They allowed other entrants coming to compete in the industry. They said that they did not have to provide universal service obligations, because placing universal service burdens on new entrants might have the effect of discouraging competition. We, as a Government, are mindful of the fact that we have to try as much as possible to distribute our universal service obligations. The model that we have tried to follow is the one that comes close to how we distribute universal service obligations.

If one reads the Telecommunications Act Handbook of 1996, one would see that every carrier that provides interstate telecommunications services shall contribute an equitable and non-distributory basis to the specific predictable, and sufficient mechanism established by the authority to preserve an advanced universal service. That is the way we have decided. We have said that the burden of universal service falls on everyone, but we have to be very careful that we do not burden the competition coming in, that it prohibits them from competing. We have to do it in an equitable way.

Let us talk about the dominant service supplier. I know Sen. Daly spoke about dominance. We did not use the words “dominant service supplier” or “dominant provider” in the Telecommunications Bill. There is a reason for that. At present, we know that TSTT is the dominant provider of voice and data services. That may change in years to come. There may be another dominant supplier, and in other

aspects of the telecommunications industry, such as in cellular, fixed line services, data services, video services and Internet services provision. That could change over time if one talks about dominant service providers.

He also spoke about what would happen to that dominant service provider. The Bill sets in train a legislative framework by which we have to operate. I think it is fair and allows the ground rules to be established quite clearly for competition coming into the country. We also have to realize that there is pragmatism to this whole thing of telecommunications. If tomorrow morning a licence is granted for fixed line telephone, how long do you think it would take a person to build out that network? First of all, to build out that network would cost billions of dollars. It took TSTT 20 years to get 200,000 lines with a teledensity of 20 per cent. It will not happen within one, two or three years. Then, one has to go to each customer and provide an incentive for using that network versus TSTT's network. Again, that is a function of reliability. I do not know if businesses that have all their business onto one network would move just like that. There is a practical approach to this licensing procedure.

As a matter of fact, at present, TSTT is in a very good position. Sen. Daly asked what would happen to the NER? When deregulation comes into a country many things happen. When one looks at some of the telecommunications services in the United States, the price of services went down for customer, but the volumes went up. The prices of T1 circuits which are 24 digital lines went down by almost 40 per cent. Guess what? Businesses required more and more services and the volume went up. It is like the airline industry. Airline deregulation has led to a doubling of passenger volumes over the last 10 years. Business and residential customers would demand better pricing schemes, more gadgetry, less fuss and a substantial mix of services on a one-stop-shop basis.

What will happen to TSTT? Would they say that they are preparing for competition and have to get into segments of the market? It is obvious. They would no longer concentrate on voice services or fixed line services. They would allow the market to dictate to them. They would become more efficient and effective and the market would grow in size. I suspect that if it is done correctly, we may see a doubling of that profit that they are declaring at present, probably over the next five or six years, and it would contribute towards the National Enterprises Limited. The whole business of telecommunications would open up and explode. As a dominant service provider, they are in a very unique position because no company would come into the country to build another fixed line network. There is pragmatism to this whole approach.

Look at cellular operations. In 1997 and 1998, when the Government said it would award cellular licences, TSTT had about 25,000 subscribers at that point in time. At present, TSTT has in excess of 110,000 subscribers in two years. Why is that? When there is a dominant supplier or monopoly, they would actually allow a service to be sold at what price the market is willing to bear. Whenever competition comes in, it is not what price the market is willing to bear, but how much percentage can be attracted in this market at a particular price, to give a return on the investment. Within two years we quadrupled the cellular operations. The market size could be in excess of 200,000 or 300,000. Do you know what happened then?

Two years ago, they said that they would charge $500 for activation fees and $1.50 per minute. I cannot remember exactly what was happening. Now, look at the innovative schemes. They have said that the $500 activation fee is no longer there. One can come on free and the call-in party pays. Do you know what that does? There are 135,000 lines going through TSTT and the minutes are calculated. The minutes multiplied by a certain value would give revenue. The bigger the volume of minutes going through the local interconnect or local networks, it would give more revenue.

Let me talk about interconnect, as Sen. Daly spoke about. The legislation provides a framework for interconnect. When the market grows, whether it be data, market, video or Internet services or whatever service, they must interconnect to the local incumbent. When they interconnect, one would see a doubling and tripling of the present capacity. Suppose there are 135,000 cellular subscribers and one freezes that, and another supplier is providing services that want to communicate, how would I communicate with Sen. Lucky?

3.40p.m.

She has a wireless telephone, she calls, but it must go through the line facilities and eventually it comes out, and then she can communicate but you have to pay for those facilities. If you decide to market these services very aggressively, what you may find happening is that you may have four suppliers of which TSTT may have 200,000 subs, and there may be other suppliers with about 300,000 subs in total. Those 300,000 subs got there by spending their own money, but guess what has happened? It goes through the interconnect and for that interconnect they pay TSTT a fee. What does that do to one's bottom line on already existing networking? It must improve your revenue. It must improve your bottom line. It must improve your profitability. I think as a National Enterprises Limited (NEL) investor, I will go out and buy shares because I realize that as this

market opens, and you trend all of the statistics and you see that wireless operations are meeting fixed-line operations, and within two or three years, that data operations are exceeding fixed-line operations, that the whole world of Internet—we are at a 3/4 per cent penetration and as we move towards a knowledge economy you should get to 40/50 per cent of penetration as you are seeing in some countries like the United States and Europe—What is going to happen? They must go through the interconnect so I will put myself in a very good position. So what is going to happen to the NEL? It must hit the bottom line.

I just wanted to talk about that in terms of the dominant service provider because TSTT finds itself in a very good position because they can compete. Not only can they compete, but also they have the advantage of being the incumbent and they have the advantage of being the only carrier in the country—which I call the exchange carrier—to provide the interconnect to the people wanting to come and invest. So it just gives you an idea in terms of what is going to happen I think, with TSTT in the future as the industry is deregulated.

In the old days, we talked about rate rebalancing and Sen. King spoke a little about that in her contribution. Rate rebalancing was given to monopolies generally, and it was called the accounting rate. If I wanted to call somebody in the United States I would use my circuits and then I would come down into the United States circuits, and then I would use their circuits, and for that, whoever terminates that call—it is called termination—I will have to pay them a fee and vice versa. If somebody in the United States, like in Florida, wants to call somebody in Trinidad and Tobago, they would use their networks and as they hit the Trinidad and Tobago networks to route their calls they would pay me a fee. The Federal Communications Commission (FCC) says it is going to be 42 cents. Forty-two cents was going to be the rate each person—and that is what was called symmetric regulation. So what we found was that the net effects were more minutes coming into the country than leaving the country. You subtracted the two and TSTT got the net result multiplied by 42 cents.

Whenever you have an accounting rate, especially in countries with monopolies, and there is a rate of return you never run a company efficiently and that subsidy was supposed to actually build out the universal service obligation that Sen. Montano spoke about. But there was no way really of policing that. What has happened since, is that the FCC said, no longer are you going to pay 14 cents, you are going to pay 19 cents because if you go to the United States today, and you ask what it costs to make a call from Miami to California, it is less than five cents. So why do we have to pay 19 cents? If we go anywhere as a single

person, we are carrying bulk volume of traffic over there, and this is what happens also when you have one person like an incumbent negotiating. I know that we could have probably got a better rate than 19 cents to terminate our calls in the United States, and vice versa—what does it cost us to terminate a call in Trinidad and Tobago presently? What does it cost you to pick up that telephone. There are many many models of how much it costs one to terminate that call in Trinidad and Tobago. Certainly, less than 10 cents. The Americans pay us 10 cents. The termination cost is about 19 cents. And again that differential is to be used for our universal service obligations. How do we police that, I do not know. So there are all those mechanisms that are used. Yet still, we are able to afford it.

What is also happening, as I said before, is that since the industry has changed in terms of the profile of what is happening and we continue to cross-subsidize on the local front, which means the local lines, that whole industry has changed. No longer are we running at a loss in that industry. I do not think so. At least, instead of one line coming into your home with voice services, you probably now have two and three lines so the whole profile has changed, which is why we are going to model legislation, where we are going to price-cap regulation versus rate-of-return legislation. Rate-of-return legislation makes you run inefficiently because the amount of money you invest, you are only allowed a certain rate of return. You could buy one set of equipment, you could increase your cost and your rate of return could stay in a particular area.

Price cap allows you to be cost-based and what do I mean by cost-based? This is the cost of providing a telecommunications service and that is the price cap, and nobody else can go beyond that price cap and likewise nobody else can go below a certain floor pricing so you do not get people out and compete in an unfair way. You go within these two areas of a price cap and a flooring but people are allowed to compete within those two areas and as you become more and more competitive, and as the market begins to segment itself going into other services, what you find happening is that the services tend to be driven down from the price cap. And who benefits in the end? The consumer.

Sen. Morean was very concerned about who benefits in the end, so I was just trying to give you an idea of when we go to this model legislation it is going to force TSTT to become more efficient as an operator. It is going to force TSTT also to deploy efficient technologies to go to a cost-based system, and to ensure that they package themselves correctly to compete with other people who will be cost-based. It is a piece of legislation that is very modern in its thinking—I know there was some confusion. Sen. King spoke of confusion in clauses 29(5) and 6.

"(5) In respect of any telecommunications services provided on an exclusive basis by a concessionaire, the Authority shall establish the maximum rate-of-return that the concessionaire may receive on its investment.

(6) For any public telecommunications service in which there is competition, the Authority may introduce a method for regulating the prices of a dominant provider of such telecommunications service by establishing caps on such prices, or by such other methods as it may deem appropriate."

It is a pragmatic approach to this whole thing. If tomorrow morning this Bill is passed, there is a dominant provider who is on rate-of-return regulation that probably wants to go to price-cap regulations and he has to be given time to go to price-cap. However, new people coming into the country have to price their services in a particular way based on cost-based services so you just cannot tell TSTT tomorrow morning, that they have got to stop all that with their accounting and their rate-of-return and that they have got to go to a price-cap. You just cannot do that. You have to give them time, and I think they are prepared but they may take six months, they may take seven months, they may take eight months to prepare for price-cap regulations. With price-cap regulations you become very efficient in deploying technologies and very, very efficient in the way you run and operate your business not only locally, but also internationally. I have tried to clear it up a bit in terms of what is happening with price-cap versus rate-of-return regulations.

Sen. Montano spoke of Internet protocol technologies, and I want to explain that, and I will go into a little technical stuff. I will explain how it will help us as a country. He asked what is going to happen to IP technology? IP is the Internet protocol. It is the technology that is used in providing Internet services. IP technologies are based on little packets of switches going across a line, whereas the technologies that we use today—when you call somebody, the lines remain open and you are charged for that depending on if you pick up a telephone and you call. IP technology is that charge and the packets go down a line. It is a more efficient way of charging for services. There are some gurus who say—that in the future—within the next five or 10 years—most of the voice services, data services, as well as radio services, are all going to use IP technology which is a more efficient way of deploying technologies. How can we get rid of that? How can we sit down today and tell people that they cannot use their Internet or that they cannot use IP technologies? I think, if there is the bypass, what is going to happen is that the Authority is going to come in and say you are using this thing

illegally and I am going to shut you down. They cannot prevent it. As a matter of fact, the United States made a very, very deliberate attempt and strategy to say they are not necessarily going to tax the Internet because that is where it is all going to explode. That is where e-commerce is going to come from. That is where we are going to generate a lot of e-transactions and we cannot afford to tax them. Maybe, in 10 years from now as the volume of transactions picks up through the Internet, at that point in time, it will be taxed.

Also, what is happening to IP technology is that the cost of providing services with just pure technology is much less than using circuit switch technology. If one looks at Cable and Wireless over the world, what is happening now is they are buying up IP technology companies because they themselves feel that the future of those services are going to be in IP technologies and not in circuits. This is all obsolete stuff. They are just dumping their cellular network and saying they want to go into IP technologies in the future which encompasses many services. How can you get up and say I want to outlaw technologies? The Bill is not meant for that. The Bill is to try and encourage competition but, of course, trying to stop bypass, trying to stop illegal activities. IP will also—in the world of competition, as you begin to use IP technologies which is lower than the present-day technologies—drive the cost of services down. When you drive the cost of services down, do you know what you are going to do eventually? You will be stopping the bypass. There is no need to bypass anymore because your cost of services is lower, and who benefits in the end? The consumer benefits in the end, so one has to be very mindful and be very careful that when one speaks of outlawing technologies, what one is doing is actually confirming the monopoly.

3.50 p.m.

Let us talk a little about phased liberalization. I know that Sen. King spoke about liberalization—whether we are going to have shock treatment. Shock treatment is opening up your industry and saying come and operate. Phased is over a period of time.

The 1991 Bill—ten years ago—was when the whole world, not only Trinidad and Tobago, realized that we have to operate in a deregulated industry. Many of the monopolies at that point in time knew it was coming. Even when we had the Dookeran Committee, in 1997, many knew the regulations were coming. You see it in the world: you see it in the United States; you see it in England, the British Telecom; you see it in New Zealand; you see it in Australia; you see it in Hong Kong; you see it in Japan. It was coming. Is that not some form of phase?

Mr. Vice-President, let me also say that if tomorrow morning you granted a licence to put down a network, whether a fixed-line network or a wireless network, how long do you think it would take you to build out that network? If somebody wants to build a fixed-line network and provide an alternate interconnect, it will take at least 10 to 15 years with no revenue; or probably some kind of revenue, I do not know, but it will be a real loss going forward, unless you have extremely deep pockets.

If you build out a wireless network, it will still take you three to four years. Is that not some form of phase? Building out the network will probably be three years. It will probably be four years before you even get your first customer. You have to invest your money; you have to bring it; you have to build it. It is a complicated process. It is not just building a facility to manufacture goods that will take you six or seven months. It takes a long time. You have to put marketing schemes in place to attract those customers. You are a customer, you have to get your volume of minutes up. Already the dominant supplier has the cream of the customers, so you have to be very, very innovative and creative.

All in all, when you look at the Bill, the Government has been more than fair. As a matter of fact, when Sen. Prof. Deosaran said that we had the committee two or three years ago and two people did not sign and there was a minority report, part of the reason for that was that they felt we should have shocked the system and just opened up everything. The Government, in its infinite wisdom, said it did not think we should do that necessarily; that we have to be cognizant of the fact that Cable and Wireless has been here for some time; they have contributed to the country; they have contributed to the economy and therefore we should do it in a particular way. That is why we had that minority report coming forward.

Having said that, I still say that if tomorrow morning we shock the system, what will happen is a pragmatic approach to how telecommunications develop. We just do not walk in and begin to sell services. There is a pragmatic approach to the whole infrastructure; to the whole public services telephone network. Even today, fixed-line networks are saying it is too expensive even as an incumbent, to build out networks. What I am going to go to now is what is called the last mile network, which I am going to build out through a wireless network. It is even more expensive.

So, there is a pragmatic approach—a real approach to this whole thing. When people scream that it is unfair to TSTT, I think we are almost doing them justice. I think the market will explode in many different service areas. We will get re-engineering of the networks. They themselves will choose the networks they want

to compete in, whether fixed line, wireless or data services. They themselves will provide the interconnect. They are just going to sit down and get the interconnect fees. If tomorrow morning networks came in a world of utopia, assuming these networks were built out in four months, they must go through the interconnect. Imagine you have 200,000 customers going through TSTT now. In a world of utopia, people put these customers down and you have a million customers, where will they go? They will go through the interconnect. Who will benefit on the extra 800,000? It will be TSTT.

Personally, I will run out and buy more shares in National Enterprises Limited**.** It will have a tremendous impact on shareholders and shareholding value. I think we underestimate it. We underestimate what will happen in a world where telecommunications cost is cheaper. I ask you the question: If today, you are paying $25 for a residential line, assuming that price goes down to $5, how many lines will you go out there and rent? You may go out and rent six. For me as an example, I have seven children, I may rent a line for each child. You know what may happen? That is not where the cost will be. It will be in the use of the minutes. What will happen? It will drive everything up. So as the prices come down for installation, you reuse your network.

One of the ways that monopolies used to say that we needed cross subsidies is in what they call the access deficit. The access deficit was a simple little formula with a lot of complexities and assumptions behind it. They said that access deficit was equal to the use of a line minus the maintenance and once the maintenance was higher than the use of the line, there was a deficit, so you were cross-subsidized. That has changed because nobody calculated the reuse of the line, so nobody calculated that you were going to have two or three lines in any one home. That is positive now, so I am just trying to give you an idea of what is happening here.

What we do not want to do, and I know that somebody mentioned Jamaica. Really and truly Jamaica is having a problem. The two companies over there that were successful in cellular have applied to the Office of Utilities Regulations. The *Financial Gleaner* says that:

> "Both Digicell, formerly Moesel Jamaica, and Centennial Digital have also asked the OUR to recommend an increase in the cost for telephone calls from landbased to cellular telephones on the basis that those costs were currently too low."

Of course when you auction a spectrum for a big amount, who will absorb it in the end? It has to be the consumer. Somebody has to pay for it. The idea in deregulating an industry, what we are trying to achieve is lower cost to our consumer, more use of the facilities, attracting investments and putting the ground rules in place to attract the virtual offices.

Sen. King: Is the hon. Minister aware that companies like MCI and Sprint can sit in Florida and supply us using low earth-orbiting satellites? They do not have to come in to interconnect.

Sen. The Hon. L. Gillette: That is true. As a matter of fact, the LEOS and the MEOS are all the big satellites now and it is all a whole new wave of regulations facing the world right now. The Federal Communications Commission is going through this also because they are saying that the LEOS will now provide services independent of the fixed line.

4.00 p.m.

Having said that though, if somebody in the United States wants to call me, unless I have a similar technology or a similar phone then he could call me. If I do not have a phone he must go through the Interconnect. What I am saying is that I must have a phone with the same service. What they are saying now is that those rates are prohibitive. I think it is almost $5 a minute or something like that, but it is something to which we have to turn our eyes. It is almost something like direct broadcast services that happened in the United States 20 years ago—similar, in terms of providing multi-media services to the world. So I think we have to be mindful of that.

Sen. King: I think we have to be mindful that it is much cheaper than what you imagine, so I think we would have to get together and talk about that.

Sen. The Hon. L. Gillette: Sure, that is not a problem at all, but technologies are going to come and technologies are going to go. Some are going to become obsolete and some are going to be there for the future. We have to be mindful of that. That is where, as Minister Maraj said, we have a document that is a work in progress. We have to license that ban also.

Let me explain something to you, Mr. Vice-President. The Bill is separated into two areas: concessions and spectrum licences and as you know you may have a concession without a spectrum licence. For example, an Internet company may not need a spectrum, they would have to go through the Interconnect, through TSTT. On the other hand, you may require a spectrum licence without a

concession; like a bank that wants to create an internal network system. That is where the Bill is very clear and it separates the two. However, for a Low Earth Orbiting (LEO) or what they call the Global Mobile Personal Communications Services (GMPCS) coming into Trinidad, they must apply for reuse of spectrum coming into the country.

There are many things to be worked out because you have also, Customs and Excise bringing those telephones into the country. We have also to be guided by what some of the countries are doing around the world in terms of getting together to compete for those alternating technologies. I do not know if that answers your question but it is something of which we have to be mindful.

Sen. King: Well I think the question really is: Is the Government considering now that would be one of the concessions that may be provided or allowed so that MCI or Sprint could provide services to Trinidad and Tobago without having to come into Trinidad and Tobago? Is that under the Government's jurisdiction at this time? Are they looking at that?

Sen. The Hon. L. Gillette: I think we are looking at that now because under Wireless Telegraphy Ordinance (WTO) we have said, listen, we are signatory to WTO and we want to allow competition in whatever sector. Again, however, any company willing to use our airways, in whatever capacity, our PSTN must come through the regulatory body. It has to come through the regulatory body unless they do it, again bypass. Once you begin to do bypass and move away from the Interconnect, then the regulatory body could come inside and TSTT could say: that person is illegally bypassing me and I want you to stop it. The Authority would, therefore, go in and say: listen, I do not care what methods you are using to connect, I think you are illegal and I am going to stop you. That is why this legislation is absolutely so important. Right now we do not have the legislation in place to do that. It is not protection, it is trying to bring under the umbrella of telecommunications what is happening. I am certain that more and more into the future, different types of services would evolve because you have under GNPCS, paging services, data services, Internet services; you have everything, so you have to be very careful and mindful of that.

Sen. Prof. Deosaran: Mr. Vice-President, since the hon. Minister is in this very generous mood, I wonder if he could clarify something for me please. As this Bill is being debated, are there any applications and/or decisions being made for such application on the spectrum?

Sen. The Hon. L. Gillette: First of all, let me say that what this Bill is dealing with is the deregulating of Voice Line Services. Listen to me carefully. Voice Line Services: that is why I am trying to remove all the cloudiness around it. There are many companies out there right now using wireless data services. If they want to use wired data services they must go through TSTT on the Interconnect and over a period of time the Telecommunications Authority has been granting those spectrum licences. They have been because you can do it for maritime, data, commercial and internal services, ATM network, whatever you want to do, so you have to continue. What we want to do in this legislation is to bring all these things under one umbrella to see what is happening out there. We do not only want to see but maybe in the future we want to take our pound of flesh so that the telecommunications industry could contribute towards the economy in a fruitful way. That is what is happening and the only thing we are deregulating right now is, as I said, Voice Line Services. There are many companies doing Internet, wireless data and video; you understand what I am saying?

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. The Hon. L. Gillette: Thank you, Mr. Vice-President. As I said, it is something we have to be doing consistently. We have to be doing it because we have commercial networks—not voice, I want to be very clear—both internal and external.

If you look at the legislation some of those things are just nuisance value so what we want to do in the Authority, really, is to say we are going to classify them and say that these are the nuisance values. However, you have to report to the Authority what is happening here right now and those that are more serious, in terms of different networks, then we are going to evaluate in a different direction. That is how the Authority is going to proceed.

I think somebody mentioned consumer protection and I believe when you look at the clause, I think it is clause 24(1), it says here that:

"…a public telecommunications service shall require the concessionaire to adhere, where applicable, to conditions requiring the concessionaire to–

(i) refrain from impairing or terminating the telecommunications service provided to a user or other provider of a telecommunications service during a dispute, without the prior written approval of the Authority, except that, the concessionaire may, in respect of a billing dispute, collect from any such user or other provider amounts that are not in dispute;"

It is really there to protect the user. I know many times we have disputes where we would say: listen, you have billed me wrongly. What we are afraid of is the provider of the service, whoever it may be—and that billing could also be for data services, paging services or voice services—would just go and disconnect them, and we want to say you just cannot disconnect them like that. It protects the consumer to a certain extent. I think it was, again, Sen. King who mentioned that.

Sen. Montano spoke about licences that were granted to prevent transfers. I know the Bill speaks about that. It says every concessionaire for a telecommunications network, a public telecom service or a broadcasting service shall prohibit the transfer of control of the concessionaire without the prior written approval of the Authority. Maybe we need to strengthen some of those things in here to ensure we do not have licences being sold, as what he spoke about. Maybe we can do something with respect to that, I do not know.

4.10 p.m.

Sen. Daly: Could I ask this? Did I understand you to be saying that the existing telecommunications division is currently granting licences of the type that will be granted in the future by the Telecommunications Authority—non-voice? I accept it is non-voice but do I understand you to be saying that the existing telecommunications division is currently granting non-voice licences of the type that will be dealt with in the future under this Act?

Sen. The Hon. L. Gillette: Well what is happening right now as an example—[*Interruption*] No, it is a good question. What is happening right now, there are critical networks—like a bank will be calling for a critical link. A utility, TSTT as an example, has to apply to the telecommunications industry and we are giving them that particular—we are saying, "Yes, go ahead." However, what we are mindful of is that the Authority is, in fact, coming into place and we are trying as much as possible to hold off. There are tons of applications coming inside. So we want to get the Authority going because it is the avenue by which we are going to start to award licences or concessions.

Falling in line with the—I know that Sen. Dr. Eastlyn McKenzie spoke about the Tobago House of Assembly and its contribution, but in the licence that was

granted—and I want you to see something here and I just want you to be mindful that there must be a consolidated approach to this whole thing and it is called spectrum management. If you look at the Tobago House of Assembly licence, under the general terms it says that specifically this licence authorizes Tobago Telecom to deploy wireless services in the 800 megahertz, 900 megahertz, 2.4 gigahertz, 3.5 gigahertz, 9.7 gigahertz, 8 gigahertz, 4 gigahertz and 6 gigahertz ranges. So it is given everything. How you grant a licence, for example—[*Interruption*]

Mr. Maraj: Thank you very much, colleague, for giving way. Thank you, Senator. I just wanted to add to what my colleague said in response to Sen. Daly. I know there are concerns about that development with respect to the point that the Authority is to come into place. However, let me also say that recently, through the Cabinet, we have established an advisory council to the Minister on all these issues, and we are managing all these requests in such a way as to ensure that this advisory council is, in fact, a stepping stone towards the eventual establishment of the Authority; so that there is no chaos. It is a reality that we have to deal with. There had been requests even before we put this legislation in place and we are seeking to manage the system in such a way that it does not make meaningless what we are doing at this point in time and that we protect the spectrum which is part of the inheritance and the patrimony of Trinidad and Tobago. Thank you, Mr. Vice-President.

Sen. Daly: Since he has jumped in, is this Minister going to take the question now, Sir?

Mr. Vice-President: He sought to clarify; so I would allow the hon. Minister to continue.

Sen. Daly: He is giving licence "free sheet". That is what we are trying to find out.

Sen. The Hon. L. Gillette: So what I was saying is that, why eventually with the Tobago House of Assembly there is—because, for example, if you have a broadcast service like 95.1 or 94.1 and you go out and you grant, because you are ill-advised, the whole spectrum of 90 megahertz, what you have, in fact, done is given away all those 90.1s, 90.2s, 90.3s, 90.4s up to whatever. So that is why you have to be very careful and that is why in it we sought to have an Authority so that we can look at this whole thing, because, think of having a 95.1 down here broadcasting and you also have a 95.1 in Tobago broadcasting. There is going to be interference.

So you have to have some sort of solidarity and some sort of central point in which you are going to award these licences, whether it be for broadcast services or for commercial. That was the reason that in the legislation we had to repeal that particular portion of the THA and I think that we can look at it, but it is something that we have to be mindful of because a lot of the frequencies that have already been allocated, especially to TSTT, are because of national security issues. Also, the Ministry of National Security has a lot of frequencies allocated.

So all in all, Mr. Vice-President, on the last topic with respect to cross-subsidies, again I know that was an issue we talked about last time. What we are saying again, and what the Bill hopes to say, really, is that cross-subsidization by existing monopolies provides a significant barrier to competition. Why? It is because new market entrants are unable to match incumbents' provider prices. These are supported by extensive subsidies. So what we are trying to say is, all right, before you begin to cross-subsidize you have to tell us because we cannot operate in an unfair manner.

What I mean by cross-subsidize is, for example, you have one service that is making a lot of money. You must be able to determine what your cost of services are and whatever you are going to provide to that company you should also provide it to other people. That is all we are saying. If you want to cross-subsidize it is no problem. For example, supposing on an interconnection of greater services you are saying it costs you $1 for each lease line circuit, but TSTT is providing both lease line circuits and company X is providing lease line circuits.

We are saying, "Listen, do not charge the company $50 and charge you $1 whereby the company now has to sell that service for $51 and you can go ahead and sell this service for $2." That is all we are saying with respect to cross-subsidies. So we are saying, "Listen, you got to apply to the Authority; you got to show how your whole build up is with respect to cross-subsidies, where you want to cross-subsidize." Of course, then the Authority will say, "You know, it is no problem, you can go ahead and you can cross-subsidize." We need to also cross-subsidize maybe for universal service obligations; maybe you can build out in an area that is low income, maybe for an area to help people who are not as fortunate as we are, to provide lower services—fine; no problem. So I just wanted to clarify that with respect to cross-subsidies because cross-subsidies presently are going across geographic regions, as are cross-services.

So, Mr. Vice-President, next week in the Senate I think that we are going to have a good wrap-up by Minister Maraj and we are also going to have a long committee stage because there are a lot of amendments that we are going to have

to deal with. However, I think the Bill is fair, it is transparent, it is forward-looking, it encourages ground rules for competition, it involves efficiency of the services by introducing cost-based methods of price cap—[*Interruption*]

Sen. Daly: I thank the Minister for giving way. Will he ask his colleague, when he gives us the comprehensive wrap-up, to give us a list of all the licences granted already?

Sen. The Hon. L. Gillette: It differentiates between concessions and licences and, of course, it sets in train deregulation of the telecom industry and of course this is key to the Government's quest for a knowledge-based economy as it pertains to education and the stimulation of wealth creation through intellectual knowledge and capital. I thank you, Mr. Vice-President. [*Desk thumping*]

Sen. Joan Yuille-Williams: [*Desk thumping*] Mr. Vice-President, at one time I had decided against making a contribution but I thought at the end of it all there were a couple of things that I would like to ask about and get cleared up, so I am taking this opportunity to make a contribution this afternoon. Let me first congratulate all those who made their maiden speeches during this session of the Parliament at various times and to wish them all the best.

I particularly wanted to speak to Sen. Raziah Ahmed but she left the Parliament, because there is a little perception that I wanted to clear away. If I could remember well, when she made her contribution she had some concern about the contributions made by those on this side, especially on the Opposition Benches and she felt, to me, that in some way we were hindering the progress of the legislation I think, through excessive talking and that sort of thing. I wanted to assure her that she had the wrong perception. By now, at the end of this debate, after having heard all my colleagues on this side, she would have realized that some thought was taken in the selection of those who are on this side of the Bench and that we always, as we did in the last Parliament and will continue to do, try to make a valuable contribution to any debate. When I say to a debate, we always participate and I am hoping that the same thing will come from the other side.

Mr. Vice-President, you know that in the last administration you had the opportunity to debate because when we were on that side we always made our contributions and if ever you got a reputation as a good debater it was because of the contributions we used to make. I want to assure her that we really take the work that we do on this side very, very seriously and that whatever perception she has about the work that we do and whatever we say was erroneous. Mr. Vice-President, also, unfortunately, and I make no bones about this, during the debate,

something that Sen. Daly probably tried to hint about, something was brought into the debate which he found to be churlish; but people must realize that when you say things in a debate it leaves the room open for others to talk about it. I want to put it in the context of the Bill so that I would be on target.

Sen. Lucky—the acting AG, congratulations—talked about getting this Bill right. Still, there is a bit of mediocrity in the manner in which you were coming along with it. However, in terms of getting the Bill right, she spoke elsewhere about what she was going to do and I am saying we want to also get it right. Time, as they say, is the essence and I am saying that when you have a Bill like this you have to forget sometimes the time that you spend working on it and I want to congratulate the hon. Minister. From the time he presented the Bill I recognized that what he said upfront told me that he recognized that he needed time. Although he did not get into the committee stage, as he wanted to three weeks ago, he used another strategy to give him and all of us time.

I want to tell you something, hon. Senator, that this debate that we are going through today is not taking place in here alone at all and has been influenced to a large extent by the debate outside there. So it is not just that we sat here today and came to this conclusion at all. The time we took helped us to talk with people outside there and up to last night, if you listened to the television, you would have heard the debate going on, and it was absolutely necessary. We said it from the beginning that others should get involved. We were not comfortable with the fact that this Bill was brought here and there was not enough dialogue. We could not do it alone.

In fact, I just heard the hon. Minister speak and he was talking a language that some of us are now trying to get accustomed to at this time. If all the decisions we had to make were going to be made on what we know about this, then we would not have been making the right decisions. We had to get expert advice, and even now we are still short, but we had to ask people about certain things in here and we needed time. So although we probably did not get into the committee stage that we wanted to get into, time gave us the opportunity to do it. I am sure the hon. Minister himself did a lot of talking and a lot of reading and a lot of listening, something that I myself did. In fact, I have gone through the Bill, I still did not understand it but have found myself reading all sorts of things and have gotten much more involved in the sector itself, and I suppose that we will follow it throughout.

Therefore we want, at the end of it—and I am going to throw this out—to win in this case and I have to use this term because some people brought it into the

Parliament. We want to go into a win-win situation. Let me just tell whoever brought it here, [*Desk thumping*] we know the difference between the concepts of losing and winning. We want to win [*Desk thumping*] where this Bill is concerned, make no mistake about it, and no self-esteem is going to help us through with this, not at all. None of that will change us from one side to the next. We have got to get our facts right however long it takes and I see from this afternoon and from the contributions made, people are willing to find that time.

In fact, the hon. Minister had said, "Let us spend a whole day next week doing it." I do not know how far it will help us but we are going to work on it. We have all, on this side, gone out and asked people and discussed things because we really wanted to make some contribution towards it. In fact, this has to be a win-win situation because we are opening up a sector that is very dynamic. When I was looking at some of the things and I heard one of the Senators talk about the time, I took something and I looked at what happened to it in America and it started by saying they are looking at their Telecommunications Act of 1996.

It said that on February 1, 1996 after more than a year of intensive negotiations and political wrangling, Congress overwhelmingly passed the Telecommunications Act of 1996. The Act is the first comprehensive rewrite of the Communications Act of 1934. So when you started to say things about where we are and how slow we are and we have only got up to this stage, it is a wonder somebody did not say that 30 years ago the PNM should have introduced this Bill. That is the only thing I did not hear. It took a year of intensive wrangling to get it because of the importance of it—one year of intensive wrangling. We are just about a month now talking about it, so that we did not take too much time. In fact, we could spend some more time working on it, as we will probably try to do next week.

Sen. Gillette: Senator, just one thing. It is not 1930 because it says here, this is the Act of 1996. It says on August 11, 1994 the Senate committee cleared the Communications Act of 1994 by a strong bipartisan 80 to 2 vote. It goes on to talk also about the Act of 1995 and I think the Act of 1993, and this is the Act I have before me here. So it is not 30 years of debate.

4.25 p.m.

Sen. J. Yuille-Williams: Thank you, Senator. Mr. President, I was talking about this Telecommunications Bill, 2001 that we were doing here which, on the very first day, I heard it said that we were going too slowly and we were just talking. I am just saying that it takes time. After listening to you, you spent a

number of years in this to be able to come and say what you have said there, but if we have to say yea or nay to something, we need to know what it contains. We are not going to go through it blindly.

One of the things that gave us some difficulty has been the policy of the Government not to bring forward its policy to govern the legislation; a thing that has happened since the last Parliament and is happening again with this Parliament. If you notice some of the Private Members' Motions which came to the Parliament, most of them ask what is your policy, whether it is education or the environment. It is still a failure that we have not been able to get policy statements that guide the legislation. If we had policy statements, this might have been a much easier bill. In fact, I have before me a policy statement, *The Telecommunications Sector Policy* from Barbados, and I was able to read it. It would have been good if we could have had one from Trinidad to help us go through this, because we would have seen how this fits into the general policy.

In fact, if it does not happen, a lot of people now are concerned about what is in here. That concern sometimes comes because one is not quite sure where this would lead us. People are worried about what is happening with this Bill. Is it for them? Where will it lead us? In fact, at the end of the day, I am going to ask you who is going to benefit from it, and I will tell you why I say so. I want to refer to what one of my colleagues has said, whether the boys' club is going to be the beneficiary of it. How is it going to go down?

Part of it is because they do not have a policy statement which tells me how it is going to affect other people within the society. In fact, right now out there people are saying that telephone bills are going to go up for the average person and people out there are getting scared. Then we will hear that people are going to be laid off. I heard someone on the Government side say compelling evidence suggests the expansion of the telecommunications sector will be accompanied by an enhancement in employment opportunities and, at the same time, I got an e-mail from Barbados which said they were about to lay off a certain number of people. That is the kind of confusion that will exist in the society when you are not clear about what is happening.

When one looks at the average person, the shut-ins, as we would call them, the elderly people, those who use their telephone just for conversation within their area just because they live alone. That is a social dimension and we have to be concerned about the social part of any bit of legislation. That is a social dimension. We have to be concerned about those people and their lives.

Then we hear some elements tell us that this flat rate will be no more and they are going to have to be paying by the minute within their area. That is what is going around and people start to ask questions that their bill would certainly go up, especially as the Government is saying that the international call rate is going to go down—it has to go down—and that used to cross-subsidize the domestic rates, that was a flat rate and that is going to be no more.

The first thing people out there are saying is that their telephone bill will go up and the businessman used to subsidize it. The average person is saying that. We have to be concerned about the old woman who stays in her house and calls her friend every morning and chats with her just for company, as well as the shut-ins and the sick. All of those people who make those social calls are concerned and it is important to us as a Government that we give them that facility. It is important that we are concerned about those people as well and, therefore, without a policy to say how we should address those people, people get confused.

In terms of education, what is the policy, now that they are opening it up in terms of the libraries, the schools and the whole education system? How does it fit in? It is important that people know from the policy how they are going to look at it. Are they going to do something special for them?

I want to say why it is important to have policy statements to tell us about it. For example, the Senator said "I have a computer in every school." A computer in every school has nothing to do with what we are doing here, because there is a computer in every school and in some of those schools, the day before Common Entrance, they cut the lights and want to say that the system does not work and things do not gel together.

They have a computer in every school, and if that is all they have—they have the NESC classes, excellent computer classes, but what can they do? Microsoft Word and they cannot go any further? Worldwide Web, Internet, e-mail, e-commerce; they cannot do it because the machines they have for that class—whether they got them from somewhere about or somebody was giving away outdated machines—could not have Internet attached to them.

I am part of looking at it. They come and do the programmes, but that is the end of it. They learn how to open and close and how to key in and punch, then we want to tell people we are moving into the age, but that is what I am saying. If we are thinking about this, we are thinking at one level, and if we look at it at the other level, we would recognize that if it is a total package, they could not bring those old, outdated computers and have thousands of people going through the courses now using those and they cannot even get on the Internet.

A small businessman comes in and leaves. He cannot even see anything about e-commerce or an appreciation about how to search for information. The children leave and still cannot search for information because they are not adaptable to having the Internet and those systems.

Sen. Gillette: I know I had my chance but I just wanted to correct you with one thing there, Senator. Thank you for giving way. The same paper that the Barbados people used, which is called *The Barbados Green Paper*, they looked at our paper on the Dookeran Committee in 1997 which set in train certain policy guidelines which I have here. I do not want to go through and read the whole thing, but there were six or seven points of which the public was aware. There was consultation widely across Trinidad, especially among the technical organizations. Some of this that is in *The Barbados Green Paper* came from our working group in 1997.

Sen. J. Yuille-Williams: Mr. Minister, if I could have a Barbados paper from December 20, 2000 and I cannot have a Trinidad paper, that is why we are groping. That is what I was just saying. You said they looked at yours. Maybe they did and I will take it at your face value. If they can publish it and I can get one—in fact, it is on the web, I can scroll it down from the web and look at it and it will help me to be informed about their legislation—how can I not get one for Trinidad to find out what exactly is happening here.

Probably you were not part of it, but that circulation was important to us. That is why on the eve of our passing this legislation, last night I was hearing the union saying that at any cost, this legislation cannot pass. At any cost they are not going to make any workers redundant. They have to do it because up to this point in time, there are so many concerns in that. Up to this point in time, we have spoken and we are saying yes, we are opening up. We are liberalizing and we are getting competitors, whether we bring them in, yes or no.

We ask ourselves certain things about it. They talked about universal access and service, and I am saying to myself, where in this Bill tells me that those competitors who are going to come here to Trinidad will be forced into providing infrastructure in some of the areas that we do not have, or are they only going to come and hype off from our profitable areas? That is another question I want to ask. They are coming in. We are well behind in providing universal service to Trinidad and Tobago. Where in this legislation have we seen that we have made it in such a way that those who are coming in will go into some of the areas where we do not have it and provide it there? Or, are they just going to tap in to what is there and make as much as they can and then leave? That is another question.

It is true that we have to have infrastructure and we need to get it all over, but it seems that TSTT will have to provide infrastructure all over and then they will just come and tap in. I am saying that we should make these people go through. At least something should be in here that will force them to put infrastructure in other areas, because we want to provide this universal service and that is the kind of thing I am asking. They are coming in and they want to tap in to what we have.

Somewhere in here it is said that the carrier will have to show the network designs and whatnot to the concessionaire and let them know what the plans are. We have to show all of that. That is the first time I have ever heard that they are doing that with a competitor. I want to take this very seriously, that they have to lay out and show the competitor all of the designs and the future plans. To me, that is like a trade secret. I do not really know that that is something one is supposed to do.

I personally would think that at the points where they are going to interconnect—and I would specify the points—it is just at those points I would want to lay out my design. I would give specific points for interconnection. I would not give them my whole design and let them be free to interconnect where they want and tell them my future plans. How come? Do they think that Sprint is doing that anywhere else like they want to do? Not at all! I would have specified points for interconnection, and at those specified points, I would give them the design so they could fit their network into it. Therefore, this is what I am looking at when I am going through this because this Bill is not answering those questions.

I wonder if Sen. Prof. Kenny will tell me that by now so—and I understand that even some of the other pieces of legislation will tell us—from a point of view of the environment, they want to keep the environment and there should be much more wireless going on, rather than having them put up all these poles. I would tell some of these concessionaires coming in that for the future, they could go wireless instead of having to go planting all of those poles. We are forcing them into that! They are coming into our territory!

If we have to benefit from something like this, benefit and let them spend some money out there, but we are just allowing them to come in, hype off the profitable areas and at the same time, we are going to have to subsidize some of these areas. I do not care what they say, because they have to be concerned about the small man. They cannot just tell me that the prices are going to fall just like that. I do not see how they will go down when they remove the subsidies.

Then they say they are going to have some universal funding here, which they have not explained too well. There is some way that people will have to pay into a fund to help make up for where the cross-subsidies will cause a shortfall. That has not been spelt out too much. I just have to think that that is going to happen. We are not too sure that that will happen and how it will happen.

That is what I am saying. The legislation is a little inadequate. It does not tell us a lot more and it does not move out. If this thing stays at the level of the boys' club, there will be trouble. They will forget the people out there. If they are bringing equipment into this country, please see that they do not bring their second-hand equipment. Those foreigners love to come here with old, outdated equipment. We have to get state-of-the-art equipment, and somewhere in this thing, they have to guarantee that we have state-of-the-art equipment. We cannot go back anymore. We have gone back enough with all those computers they are bringing here. Dump them, because we cannot go to a programme because of the fact that that is what it is.

We have TSTT as the dominant carrier. First of all, Sen. Gillette, I was not too sure about your concept of the dominant carrier, and you say the larger share of the market. If there was an equal distribution of the market, I do not know which would be dominant, so you have to come up with the dominant in that respect. I saw that you had some characteristics for the dominant carrier. I do not want to go to the page now, but I am wondering, in this legislation, it looks like the dominant carrier is being penalized. That is what I am seeing. Therefore, if I was coming in as a concessionaire, I would choose to remain non-dominant and I feel that I could still find ways of getting higher profits and remain non-dominant, because nowhere in your characteristics of the dominant carrier, profits came in.

You know people already. There could be ways in which I could get higher profits and remain non-dominant and, therefore, remove myself from the restrictions which you have put on the dominant carrier. I think you need to look at that, because right now you are penalizing TSTT as the dominant carrier. In this day and age, profits are important, and if I could get the higher profits without being a dominant, I would stay forever non-dominant, I would cream it off and when I am ready, I would leave. It is the country that will suffer. I think you need to look at some of those things, because it is not as easy as you think.

4.40 p.m.

Mr. Vice-President, let me just look at some aspects of the Bill itself because I still feel, as I said, that we have a lot of work to do on it. When I looked at the

objects of the Act—this is an item I spoke about—where you are ensuring that services are provided to people who are able to meet the financial and technical obligations in relation to those services, I got a little worried. The Minister spoke for the businessmen; I am speaking for the other people. It talks about persons who are able to meet the financial and technical obligations in relation to those services.

I thought that this was a high propensity for a service being made available only for those who can afford it, especially if the concept of rate rebalancing is put into effect and the public pays the economic cost for the service they enjoy. The overseas calls would be cheaper, and in order to bring price closer to cost then the same would apply. It is for those who can afford it; that is one of the objects. I think we have to look at that. We have to see how we can get this service for those who cannot even afford it, which is what we are doing now by the subsidies. We have to be very careful about that.

Clause 3 talks about promoting universal access to telecommunications; this is one of the objects:

> "...telecommunications services for all persons in Trinidad and Tobago, to the extent that is reasonably practicable to provide such access;"

Everything is reasonable. It does not guarantee universal access. This really could come into conflict with something that the Minister said earlier:

> "promoting universal access to telecommunications services;"

That is one of the objects in (c)(i), but a little later down it talks about:

> "…to the extent that is reasonably practicable to provide such access;"

Then we had a look at the board. I am glad that the Minister himself talked about an advisory committee that he has just set up. When I looked at the composition of the Authority, I said to myself that I am in this Parliament; I have got this Telecommunications Bill in front of me and I am getting such difficulty in understanding some of the things; I have to do some studies to understand it; I do not have the expertise. When I look at the Authority, which is supposed to advise the Minister, I notice that there is an attorney-at-law, an economist, human resource management, three other persons and somebody in some field related to power. I am thinking that a related field could be power. That could be a related field to telecommunications. Do you understand what I mean?

I want to ask the Minister: Could that group really advise the Minister on certain aspects of this whole communications service? I saw no expertise there. I

asked someone what were the necessary skills and I got things like switching and transport, frequency management, rates and tariffs, inter-administration accounting and interconnection. Nowhere on that board is there anybody like that. How could you have a board without anybody having any of those skills? No wonder the Minister is not bound to take the recommendation, because somehow, somewhere he is going to have a group with those skills advising him. This other group is like what we said some years ago, a toothless bulldog; it cannot advise. It has no skills to advise.

Whereas this Authority should be, to some extent, independent, transparent and doing what it is supposed to do, if it is to advise, how come it is made up of people who do not have the expertise? We need some kind of expertise there. So when I heard the Minister say that he had an advisory body, I wondered if he made up that advisory body on the same basis as this Authority. I am sure that he did not. I am sure that he went out and got some people who had some knowledge of telecommunications, so he could stand here today and talk to us. I am sure he did that to help him through this.

Therefore, as far as I am concerned, whether he takes the advice or not, he knows why he is not taking it, but I cannot go that way. My way would be to strengthen this Authority and put some kind of expertise among the people in this Authority, so that, at least, they could feel good. Right now this is just going to be a political board of people who are feeling comfortable serving the Government. They do not have to give the Minister advice. If they give advice that is not taken, they would not feel badly.

I want to know who could be put on a board to give advice and at no time you accept the advice, you just turn it down! They are not going to feel badly, because they are supporting the party. It is going to be very political. It is just going to be a shadow there to pretend that there is a board, but it is not effective. If we want this thing to be effective, we have to put the expertise there; if that happens you would see that this board would really advise the Minister.

For example, it says somewhere in the Bill that if the Minister makes a recommendation or turns down a request, it is sent down to the Authority, the Authority writes whoever it is and tells them that their request was not entertained or whatever. I ask myself: Is that the purpose of the Authority? What kind of men and women would you have on a board that when you do something you just send it to them, they write, sign it and send it out as if it is their own? If someone wants to appeal, who is accountable then, the Authority or the Minister? I do not know

who is accountable. As far as we are concerned it is the Authority sending out the letter on directions from the Minister, but who is accountable, you cannot tell.

I also want to know, Mr. Vice-President, the Minister said that the Authority has a certain area of jurisdiction, suppose what he says does not go in line with what they would like, let us say, in the area which they were given to supervise, what happens? If they did not agree with the Minister, what happens? That is why there is only going to be party faithfuls inside there who dare not disagree, and that are where the whole thing is going to break down. You want to have men and women who could stand up and do a job; people who you feel comfortable with. I feel the Minister needs to look at that very closely, so that we could feel confident and comfortable with that board as well.

Of course, most Senators talked about the differences between the Minister and the Authority, and I, too, wondered about that. I am wondering if it would not have been easier for us to know exactly what is the role of the Minister and the Authority. Mr. Vice-President, do you know why this legislation is so long? Because every time we read it, it is so intertwined: the Minister says so and then the Authority says so, and the Minister says so, and so on. If I knew what was the role of the Minister and the Authority it would be much easier reading, especially when you come to certain parts.

For example, where the Bill says that the function of the Authority is to determine universal service obligations pursuant to clause 28, when you go to clause 28 it tells you that it is the Minister who is supposed to determine that. That is what is happening in this Bill. When you get to clause 28 it says:

"Subject to the approval of the Minister..."

So in clause 18 it says:

"Subject to the provisions of this Act, the functions of the Authority are to—

(c) determine universal service obligations..."

When you get to clause 28 it says:

"Subject to the approval of the Minister, the Authority shall determine the public telecommunications services…"

I ask myself: Who is determining what?

You tell me on one hand that I am doing this, and then you tell me it is subject to the approval of the Minister. To me the Authority is really useless. It is just there without power and cannot make any decisions. That is going to undermine

the whole thing; nobody is going to feel comfortable. If the Authority has to do things like classify telecommunications networks and services such as public communications networks, public telecommunications services, private communications services, broadcasting services and all of that, the Authority has to have some expertise to be able to do that. It cannot just do it with a lawyer, somebody else and so forth; it must have some expertise.

I agree with all those who say widen it and bring in everybody else, but I am also saying that you need to bring some kind of expertise into this Authority. It must not just be an oversight. As we move through very quickly, I am leaving some things out because the Minister has taken up some areas. There is a lot of ambiguity sometimes in this Bill. I am going over some of the directions of the Minister. It says in clause 20:

> “Assets transferred
>
> | | | |
> |---|---|---|
> | to the Authority Schedule | (2) | The Auditor General shall within thirty days of the commencement of this Act, cause an audit of the assets vested in the Authority.” |

What are the assets? Where are these assets? What assets is the Minister talking about where it says "assets vested in the Authority"? We need to get something more to tell us what are these assets that are vested in the Authority; an Authority that could do nothing. I do not know why we are vesting any assets in them.

A lot has been said about concessions. I suppose that every time the Bill says "no person" it means person or organization, as the case may be, but it would have been nice if the Minister could have defined that; but it is all right. I am taking for granted that the "no person" means no person, organization, company or whatever it is, and it does not necessarily mean the individual. When you are talking about concessions, we are seeing that the Minister, again, is not bound to accept the advice.

Under “Concessions” in clause 21 it says:

> “(1) No person shall operate a public telecommunications network, provide a public telecommunications service or broadcasting service, without a concession granted by the Minister.
>
> (2) A person who wishes to operate a network or provide a service described in subsection (1), shall apply to the Authority in the manner prescribed.”

I am wondering if we are going to have to wait until we get the regulations to tell us about the manner prescribed. Is it that the regulations are going to tell us how all those things are going to be done? That is why sometimes when you get this kind of framework legislation, people start to think a little deeply, because we are going to pass legislation and after that has gone, then the regulations are going to tell us that these are the things that are coming behind. According to some people, the sting is in the tail. So you go through with this and, at the end of the day, then you recognize what you really subscribed to.

I saw something here which I could not understand, where, when an application for a concession is refused, the Authority will notify the applicant in writing giving the reasons for the refusal. I still want to find out, if that happens, if my application is refused, to whom I should appeal. I think that is important to us, because I am not seeing it anywhere in the Bill.

Someone talked about the broadcasting code. I would not want to detain us by going on to talk about that at all. We already talked about the whole issue of cross subsidies. The Minister has to tell us how we are going to make up for the cross subsidies.

There is one area here about when there is a dispute. I am going very quickly because of time. I know now when there is a dispute there is a difficulty in how much you pay and when you pay. Therefore, coming from the company side, as well, the Minister has not defined what is a dispute. This could lead to users not paying for the services rendered and the provider not having effective means to enforce collection except through the board. The Bill is saying that if you have a dispute, at some point in time you pay for the billing which is outside the dispute, but the Minister has not told us what is the dispute and how it is going to be handled. I do not want us to wait until we are finished with the Bill, then to get down to the concessionaire and realize that nobody understood the whole question of the dispute.

I listened to the hon. Minister when he was talking about access to facilities. Access to facilities should be negotiated between concessionaires on a nondiscriminatory and equitable basis. We know that the facilities we have in Trinidad and Tobago are inadequate to provide the service for the citizenry. This Bill simply requires that the dominant carrier make whatever scarce resources available to other operators. We are asking the Minister: Is this the way he intends to develop our country? That is going to allow the new operators to just cream off what we have and leave.

4.55 p.m.

We want to talk about the numbering process which could be a very lucrative industry, and when you are looking at it, I am wondering whether or not you are looking at the whole business of numbering, because in reading this and other material, I see that one could horde numbers. One could apply for numbers, horde them, and at a particular time when the market is right, sell them. I think you need to look at the whole process of numbering and do not leave it to chance because it could be if someone purchases—I do not know how it is done—or acquires a certain set of numbers that have to be safeguarded, you have to ensure that the numbers that are purchased are in fact used and if they are not used, they should be returned. I can tell you that one can sell numbers as a big business after a time. It does not give you any guidelines of who could acquire numbers, and that leaves these numbers open to the public. Or is it only open to the operators? I think that should be looked into because that in itself could be another area where you could lose.

I was glad to hear the hon. Minister talk about the bypass operation. They are still doing it. International calls are coming into Trinidad and they are terminating them into local calls and it is going to be very difficult to really catch up on these bypass operators. That could have a devastating effect on TSTT. I do not know if this Bill makes any arrangements to corner this loop. We have to look at it to see whether it is so or not. I heard talk about it, but large revenues could go out of this place by these bypass operators, especially with the international calls. So I think this needs to be looked at more closely. It is all well and good to mention it, but I think you need to go into some details.

The Minister talked about the approach being shock therapy or a phased approach, and I am getting the impression that he is moving more for the shock therapy because as far as he is concerned, the phased approach started many years ago. While he is talking about phased approach, he was talking about five years ago. I was looking at some of the other countries and I am seeing that their phased approach had two or three phases and they went over a couple of months and they told you of those they would liberalize over a certain period, or at the next stage.

The next thing we have to look at is the amount of expertise that we have at the time to corner everything. If we just open up to everything within the first month, we are in for a lot of trouble. All those price capping tariffs, rate balancing and all that we talked about, we have to have our own administrative system put in place for that. All the cellular systems, the wireless and all the different areas we have, I think we need to know how we are going to do it. It has to be gradual: I

am not in for the shock therapy thing where, as soon as this Bill is passed we just open up. We can phase it in and try to put things in place. I do not think it can be done in a few months or a year or two because I have looked at others and I can see where from December to June, or from August, so-and-so is going to happen and what they are going to be putting in place. I think a country like ours which is moving into this for the first time, all of us need to look at it from that point of view where we do not go into shock therapy but move into a phased approach. Therefore, we have to look at what we do in the transitional period as we move from one thing to another. That has to be carefully handled.

If we are saying that we want to put this thing in place in such a way that we benefit, we have to look at what we are doing in that transitional period. It is not stated very clearly here and, therefore, all of those things need to be worked out. So if we think we are just going to hurry ourselves to get it done so we can catch the telecommunications train that is leaving us behind, we are going to slip off on the foot board and get left behind permanently. I think it is best that we do the thing in a phased approach and try to put everything in and I would also say that we need to look at the society. The people out there do not know what we are doing here. An education programme is important for the public if we are to benefit from what is happening here because everything else must come in line with what we are doing. Sometimes we do things in such a hodgepodge way, we patch certain things so that we do not really get the benefit from what we do.

Mr. Vice-President, permit me to show how we could lose our focus sometimes. Just last week we had the Secondary Entrance Assessment (SEA) examination. We had lost focus there because we had been talking all along about one day when those kids would go out and be free from the stress that was brought upon their parents and the psychological impact on them. That was a big concern to us at that time and, therefore, I suppose within your policy you were going to reduce that stress on the parents, but eventually, the same thing happened because what we put in place—the change of format—brought the same thing out. They were all out there, they worked themselves up the same way, just the format was changed. Therefore, we ask ourselves if we had looked at what were the policies that were guiding decisions, we would have recognized it.

Similarly, if we went back a bit in the same education system when we said that the junior secondary schools that we had were going to be phased out, this Government also said it was going to phase them out so that the children would be in school for the full day, but all of that went asunder as we tried to embrace another policy and we almost had to say thanks to Dr. Eric Williams and the PNM

if it were not for the junior secondary schools, otherwise what would we have had to stuff those children in? We needed those double-shifts very badly. Somewhere along the line we could lose focus and that is why I am saying we need a policy—

Mr. Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. J. Yuille-Williams: Mr. Vice-President, I am saying that we need to stay focused in all of this. We are bringing a Telecommunications Bill, 2000 here, we have to look at it and ask ourselves how is this Bill going to be relevant to all sections of the society, not the businessmen alone. We are going to see how it is going to be relevant to the education system so when the Minister of Education says she is going to do certain things in our schools, then this must fit into that. If we feel that we are going on to the information highway, we have to translate the information that everybody would benefit from it.

We are saying, yes, we are for liberalizing, but with certain concerns, and I am still saying—I am not plugging at all, and I am not going outside—that we feel that one of the things you say with legislation is that it must be country specific. So even though a bit of legislation was good for Barbados or some other country in every way, we have to see that it is good for us. I always say to myself that sometimes legislation is passed in a Parliament and the Government wanted it passed with a simple majority which means that everybody in the Opposition voted against it and it was passed, it did not mean that it is a good piece of legislation. So we do not necessarily have to take up everybody's pieces of legislation and say it is good because that Government passed it and they are using it. We also have to see how well what we are putting fits into our own needs; what kind of society we have; what we want to encourage. If we cannot translate that and get the cultural value even within this, then we would have failed, and we would have a society of people totally frustrated. We would be moving as you think, on the information highway and half of our people would have been left behind.

I wanted to make that point very clearly that the legislation must be country specific, it must fit what we have, and I do not think it is too late to still let the country, through education, know what is their policy, how this legislation fits into the policy and what we expect. I know that the next day is going to be quite a

long day and I hope there are some experts around as we go into it. The Minister may probably be the expert for here.

There is one thing I must not forget in the few minutes that I have remaining. What has happened to Tobago? I still need to know why was the responsibility for telecommunications removed from the Tobago House of Assembly. That is the tourist island, that is where we want to get all this thing happening. Why was it removed? If someone at the time abused the privileges, I do not know. I think we need to rethink and review the whole business of telecommunications and Tobago and see what you want to do for Tobago, where you want to carry Tobago, what is the importance of it in Tobago. It is not too late to rethink the whole thing, it is important at this time to do so. I am not saying that probably privileges were not abused. I do not know. But you must have had some reason for doing it and I think at this time that you need to review the whole matter.

After the hon. Minister did some summing up almost putting the Bill at his door, I must go back to the hon. Minister from where the Bill comes. I know that from what he said he was quite sincere and I compliment him on the time he gave so that dialogue could continue, not only in here, but also in the national community. Everybody started talking about it, people became aware of it and that was very important, and regardless of the politics, you do not need to get on stage but you would also remember this quotation as you work on this Bill. "To thine own self be true."

Thank you.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. Vice-President, I beg to move that the Senate do now adjourn to Tuesday, April 10, 2001 at 10.30 a.m. and it probably will be a long day, because we will be going into the committee stage of the Bill.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 5.07 p.m.