

*Leave of Absence**Wednesday, June 20, 2001***SENATE***Wednesday, June 20, 2001*

The Senate met at 1.30 p.m.

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

Mr. President: Hon. Senators, leave of absence from sittings of the Senate has been approved for Sen. Prof. Ramesh Deosaran during the period June 17 to June 27, 2001. Leave of absence has also been approved for Sen. Christopher Thomas during the period June 18 to July 08, 2001.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Arthur N.R. Robinson
President.

TO: MR. DEREK IRVIN OUTRIDGE

WHEREAS Senator Christopher R. Thomas 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, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DEREK IRVIN OUTRIDGE, to be temporarily a member of the Senate, with effect from 20th June, 2001 and continuing during the absence from Trinidad and Tobago of the said Senator Christopher R. Thomas.

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 18th day of
June, 2001.”

Oath of Allegiance

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OATH OF ALLEGIANCE

Sen. Derek Irvin Outridge took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. The Petroleum (Amdt.) Regulations, 2001. [*The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Arima Corporation for the year ended December 31, 1995. [*The Minister of Finance (Sen. The Hon. Gerald Yetming)*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Arima Corporation for the year ended December 31, 1996. [*Hon. G. Yetming*]
4. The 1999/2000 Annual Report of the Venture Capital Incentive Programme for the year ended September 30, 2000. [*Hon. G. Yetming*]

CIVIL AVIATION BILL

Bill to make provision for the establishment of the Trinidad and Tobago Civil Aviation Authority, for the regulation of all civil aviation activities, for the implementation of certain international conventions and for the institution of safety requirements [*The Minister of Transport*]; read the first time.

Motion made, That the next stage be taken later in the proceedings. [Hon. L. Gillette]

Question put and agreed to.

ARRANGEMENT OF BUSINESS

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, I seek leave of the Senate to deal with “Bills Second Reading” under “Private Business” before proceeding with “Government Business”.

Agreed to.

Mt. Lebanon (Inc'n) Bill

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**MOUNT LEBANON INDEPENDENT SPIRITUAL BAPTIST CHURCH, THE
SACRED CHOICE OF HEAVEN (INC'N.) BILL**

Question put and agreed to, That a bill for the incorporation of the Mount Lebanon Independent Spiritual Baptist Church, the Sacred Choice of Heaven and matters incidental thereto, be now read a second time.

Bill accordingly read a second time.

Bill referred to a special select committee of the Senate appointed by the President as follows: Mr. Wade Mark (Chairman); Mr. Michael Als; Mrs. Joan Yuille-Williams; Dr. David Quamina.

CIVIL AVIATION BILL

The Minister of Transport (Sen. The Hon. Jearlean John): Mr. President, I beg to move,

That a Bill to make provision for the establishment of the Trinidad and Tobago Civil Aviation Authority, for the regulation of all civil aviation activities, for the implementation of certain international conventions and for the institution of safety requirements, be now read a second time.

You will recall that the Air Navigation Bill, 2001 was laid in this Senate on March 28, 2001. In moving that the Bill be read a second time, I took the opportunity to inform hon. Senators that Trinidad and Tobago, as a signatory to the Chicago Convention on Civil Aviation, was required to properly discharge its obligations under the convention, including the adoption of the standards and recommended practices contained in the annexes to the convention so that aviation operations within our territory can be safely and efficiently regulated.

I explained that a critical element which must be considered by all contracting states in the discharge of their obligations under the convention is the provision of effective aviation laws consistent with the environment and complexity of the states' aviation community.

1.40 p.m.

I cited recent audits by both the Federal Aviation Authority (FAA) and the International Civil Aviation Organization (ICAO) that identified the need to strengthen our primary aviation legislation and establish an appropriate state body, hereinafter referred to as the Civil Aviation Authority, with the necessary powers to ensure compliance with laws and regulations. I further explained that the existing primary legislation presently governing our civil aviation system is British in origin and dates back to colonial times. It derives from the United

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Kingdom Civil Aviation Act, 1949, as adopted in Her Majesty's colonies by the Colonial Civil Aviation Application Act Order, 1952.

I also stated that in order for our national aviation industry to be built on a solid legal foundation on par with that of other developed countries, we needed to strengthen our primary aviation legislation. Hence the reason for proposing the Air Navigation Bill.

During the debate on this Bill on May 08 and May 15 2001, our hon. Senators made a number of suggestions. They included the need for harmonizing the requirements of the Bill with other existing legislation, such as the Trinidad and Tobago Civil Aviation Authority Act and the Airports Authority Act of Trinidad and Tobago; the removal of any duplication in other legislation and better clarity and definition of the role of the Civil Aviation Authority, in particular, as it relates to airports.

Mr. President, you would then recall that based on the valid suggestions of the Senators, which we thought would serve to strengthen the Bill, the Government suspended the debate on the Air Navigation Bill. We went back to review the Bill in light of all the concerns expressed and decided to withdraw the Air Navigation Bill. We now propose this new Bill cited as the Civil Aviation Bill which consolidates the main requirements of the former Air Navigation Bill, the Trinidad and Tobago Civil Aviation Authority Act, 2000 and the relevant sections of the Airports Authority of Trinidad and Tobago Act. We adopted this approach because as a responsible government, we are committed to take into account the legitimate views of all Senators as we propose legislation.

As stated before, the purpose of this new Bill is to establish the Trinidad and Tobago Civil Aviation Authority for the regulation of all civil aviation activities; the implementation of certain international conventions and the institution of safety requirements and practices regarding air navigation.

Significant parts of the Bill are as follows:

Part I of the Bill defines aerodrome as meaning:

“...any area of land or water designed, equipped, set apart or commonly used for affording facilities for the landing and departure of aircraft and includes any area or space, whether on the ground, on the roof of a building or elsewhere, which is designed, equipped or set apart for affording facilities for the landing and departure of aircraft capable of descending or climbing

vertically, and also includes an airport which has the meaning given to it under the Airports Authority Act; Chap.49:02.”

It is important as we debate this Bill for Senators to understand that airports, heliports and helidecks are classified as aerodromes.

Part II of the Bill stipulates the functions of the Minister, the person responsible for the general administration of the Act and the development of policy on air navigation for Trinidad and Tobago. I must emphasize that the Minister—certainly not this Minister—would not be managing airports, acquiring land or regulating aviation activities. Such is the responsibility of the Authority. I wish to repeat that the Minister is responsible only for the general administration of the Act and the development of policy on air navigation for Trinidad and Tobago.

Part III of the Bill provides for the establishment of the Trinidad and Tobago Civil Aviation Authority as a body corporate; the functions and powers of the Authority; the factors governing performance of these functions and the exercise of these powers; the delegation of the Authority’s functions and powers and the Authority’s right to provide exclusive services. It clearly defines the function of the Authority as that of licensing and regulating airports, as distinct from managing the airport which is the function of the Airports Authority.

Part IV of the Bill provides for the establishment and composition of an expanded board, where appointment of the secretary, the director general of civil aviation and the responsibility of the members of the board, including the director general to disclose all pecuniary interests in matters, are deliberated upon by the board.

This Government, in recognition of the impact that aviation has on the environment, decided to include a nominee of the Environmental Management Authority on the board. I am sure that Sen. Thomas and Sen. Prof. Kenny would be quite happy about this. Likewise, this Government has decided that Tobago too, must influence the regulation of civil aviation operation in Trinidad and Tobago and has therefore included a nominee of the Tobago House of Assembly on the board.

Part VIII of the Bill contains a transitional provision whereby the obligations and liabilities of the Civil Aviation Division and the former Authority shall become the obligation and liability of the newly created Authority and all duties and functions which were carried out by the Civil Aviation Division and the former Authority shall be undertaken by the newly created Authority.

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Part IX of the Bill empowers the Authority with the approval of the Minister to make regulations for the implementation of the Chicago Convention. The Authority would also be empowered to grant certificates and licences in respect of aerodromes, air operators, airmen, schools, repair stations and aircraft. The powers to modify, suspend or revoke aviation documents would be given to the board. A general right of access to civil aircraft for the purpose of ensuring compliance with safety requirements would be given to the director general. The power to permit flight in certain circumstances would be given to the Authority. Part IX also provides for a right of appeal to persons aggrieved by certain recommendations of the director general or actions taken by the Authority.

Part X of the Bill provides for the Authority and the Minister to take certain courses of action for the prevention of accidents. This part also imposes an obligation to provide air navigation services; charge fees for such services and empowers the director general to give certain directions to the owners or occupiers of an installation, which can affect safety by interfering with navigational aids.

Part XII of the Bill would make provision for the jurisdiction of the court, prohibitions, offences and penalties.

Finally, Part XIII of the Bill provides for the Authority to be a statutory authority for the purposes of the guarantee of loans exempt from the payment of all forms of taxes and duties and also for the repeal of the Civil Aviation Authority Act, 2000.

The four Schedules attached to the Bill are self-explanatory. We have decided to circulate a number of minor amendments as further inputs. I also wish to inform hon. Senators that a Bill to amend the Airports Authority Act would be laid. These amendments would seek to remove any duplicity with this Bill. I wish to restate that this Bill represents the first phase of strengthening our civil aviation regulatory framework in accordance with our international obligations under the Chicago Convention.

This Bill is not about politics. It is about the safety of our civil aviation systems. Its passage would facilitate our next phase of the regulatory process which is the promulgation of a comprehensive set of user friendly, national civil aviation regulations. I wish to advise Sen. Montano that the detailed requirements for regulating air operators would be contained in the regulations. The Authority regards industrial input as an important consideration in the rule making process and has decided to establish a regulations advisory committee. BWIA, together

with the other air operators has been invited to become members of this regulations advisory committee.

Finally, I wish to thank Sen. Montano, Sen. Prof. Ramchand, Sen. Thomas, Sen. Morean and Sen. Daly for their very constructive criticisms of the former Air Navigation Bill, the result of which is a much improved and simplified Civil Aviation Bill, as we have presented here today. I also wish to thank all Senators for agreeing to take this Bill through all three stages in one sitting.

I beg to move.

Question proposed.

Mr. President: I just want to mention that at the end of the third reading of this Bill, providing it is passed, there would be a motion for the discharge of the Air Navigation Bill that was partially debated. As a result of that position which would be taken, Members wishing to contribute on this current Bill are free to repeat whatever contribution they made on the Air Navigation Bill. As far as the procedures are concerned, you will not be flouting any Standing Orders. We are treating this Bill as a new Bill as if the debate on the previous Air Navigation Bill never took place.

1.50 p.m.

Sen. Danny Montano: Mr. President, you are quite right. This is a new Bill. It is radically different from the first one, and much improved I must say. But, I am still disappointed to be here this afternoon, and I would take issue with some things that the Leader of Government Business said on the last occasion, the fact that he would allow us Monday and Tuesday as a grace period so that we could review the Bill to debate this afternoon. He said that he has such a caring Government that he would go along with that concession. It is a good thing that he did that, because had we attempted to debate this on Monday, I for one would have introduced some new vocabulary into this Parliament.

I got my Bill at noon on Monday, which would have given me approximately an hour and a half to review it in order to start the debate. I think, in retrospect, it is the Senators on this side that need to be commended for their patience and discipline in understanding the needs of the Government. I had recommended strongly that we deal with it at a proper time when everybody had a reasonable opportunity to examine the contents of the Bill. As I have already indicated, it is a vast improvement on the first draft.

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Mr. President, notwithstanding that, I hope you would not object when I say that we are wasting time here. In fact, this is the third occasion that this Senate is debating civil aviation. Last year we did the Civil Aviation Bill which is now the Act, then we debated the Air Navigation Bill, and now we are debating the Civil Aviation Act all over again and it begs the question: why are we debating it so often? On another occasion the Leader of Government Business indicated that he had taken things easy with us at the start of this session and so forth, and the agenda was not too crowded.

Mr. President, we are still wasting time. We would probably have to come back tomorrow afternoon to deal with another Bill when we should have been doing that today. Notwithstanding that, despite my recommendations that the Telecommunications and the Planning and Development of Land Bills should go to committees of the Senate, and be dealt with outside the Chamber, we end up trying to do a mammoth job of legal drafting in the Senate. That is not the way to do business. The way to do business is to put it in the hands of a few specialists who know what they are doing, who can talk about it and bring it back efficiently and let the parliamentary time be reserved for the debate that is necessary in terms, not only of the legislation, but on the policies of the Government. We could have spent this afternoon talking about the missing \$1.7 billion that the Treasury cannot seem to account for, instead we are here talking about civil aviation. This is the third bite at this apple when we could be talking about a very important issue that touches every citizen in the country. How does it come about?

If one looks at the structure of this new Bill, in fact, the Civil Aviation Act was almost transposed verbatim with one or two small changes that I would deal with later into my contribution on this Bill. Then, Parts IX, X, XI, XII and XIII and the Fourth Schedule were added to make this an entirely new piece of legislation. It begs the question as to why Parts IX to XIII were simply not just added to the existing legislation by way of amendments. There were a few changes in the existing legislation by way of amendments, instead, we are repealing and re-enacting the Civil Aviation Act almost verbatim. It has to be, in essence, that the Government is inviting us to debate the entire Civil Aviation Bill all over again and to renege all the differences we had on that occasion. Are we not wasting time? It has already been done. So why are we here to do it all over again? That was my suggestion on the occasion when I spoke on the Air Navigation Bill. Look at the rush that we are being put through!

I tried to get hold of BWIA on Monday afternoon and this morning, and I was unable to get through to the legal persons in the legal department to find out what their views were on this Bill. On the last occasion they had not received a copy of the Air Navigation Bill. They did not know anything about it at all until I sent them a photocopy of my Bill, so I got no input from BWIA on the last occasion and on this occasion likewise, and quite frankly, air navigation and so forth is a serious and technical business. I would like to think that the national airline, which would be seriously affected by this legislation, ought to be consulted by somebody and we should have an opportunity to talk with somebody to get an input. Unfortunately, we have had no input from, perhaps, the one organization in the country that is most affected by the legislation.

Mr. President, with that said, let us have a look at the differences between the original Civil Aviation Authority Act and the new Bill in terms of its parts. I am now referring to Parts I to VIII.

The Minister did not see fit to detail the differences or to detail specifically the policies of this new legislation, or how it was changing the philosophy. The Minister outlined generally what each part was going to do, but really made no input in terms of the philosophies or the reasons behind some of the clauses or behind some of the changes between the old legislation and the new one. Some of the changes are cosmetic, and I would not deal with those. Some of them were made where for instance, section 7(2) is now buried inside clause 33(5)(a). I would not deal with that sort of change, but I want to look at section 14 which deals with the appointments to the board and the disclosures that members are required to make in circumstances where they or their families might have an interest in a contract.

2.00 p.m.

Section 14(4) has been left out of the new Bill. Section 14(4) says:

“For the purposes of this section, a person who, or a nominee or relative of whom, is a shareholder who owns shares in excess of five per cent or is a partner in a company or other body of persons other than a statutory authority or who is an employee thereof, shall be treated as having a pecuniary interest.”

Section 14(5), which has also been left out, says:

“In this section, ‘relative’ means spouse, cohabitant within the meaning of the Cohabital Relationships Act, father, mother, brother, sister, son or daughter of a person.”

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Mr. President, we are making changes to existing legislation. I would have thought that the Minister would have taken the time to tell us not only what the changes are, but why they are making them. What exactly is the Government saying to us when it removes something like this? I would have thought that both those subsections are important, but the Minister has made no case whatever for the exclusion. I would certainly like to propose that we get a reasonable explanation or put them back in. I see no reason for leaving them out.

The tragedy is that the Minister has not presented the Bill in a manner that allows debate of anything that she has said. We are here merely to debate the law rather than the policies of the administration or anything that the Minister has said. That kind of approach defeats the purpose of a Parliament where we are here to debate the ideas and the philosophies. She cannot just present it and say, "Here it is." She has to tell us why they are doing certain things and where they are going.

The new Bill also makes provision for the Minister to vary the plans of the Authority under the original Act. Section 16(4) says:

"In directing a variation of the corporate plan, the Minister shall be guided by the objectives and policies of the Government."

In other words, that constrained him from merely making variations and directions according to his own whims and fancies. He had to be constrained by the policies and objectives of the Government. That has been left out of the present Bill. Again, there is no explanation. It has been presented without being identified—highlighted that it has been left out. I think it is a very significant fact.

Section 20(6) in the old Act:

"For the purposes of an audit conducted pursuant to this Act, the Exchequer and Audit Act shall apply as if an audit referred to in this Part is one to which that Act applies."

Again, why has this been left out? We have absolutely no explanation. It is really *infra dig* of the Minister not to explain why changes have been made.

In the parts of this Bill that have been lifted out of the existing Act, we have some new clauses. Clause 11(1) is substantially the same as under the old Act, but it now provides for eight members as opposed to six. I have no particular disagreement with that, but I would have liked to have heard why eight instead of the original six. The original six was passed in both Chambers. Everybody

seemed happy with that, but now it has gone to eight. Again, I have no difficulty with that, but I would like to know the Minister's thinking. We are not here just to rubber-stamp what the Government does, neither are we here merely to oppose for the sake of opposition. I say clearly that I am not necessarily opposed, but I would like to know why. If they are going to change legislation, let us know why they are changing it.

Clause 25(2) of the Bill is new and puts a limit on salaries to the extent of \$480,000 a year:

“...shall not assign an annual salary amount in excess of four hundred and eighty thousand dollars...”

The word “salary” is not defined anywhere. It is the custom nowadays, in many organizations, to pay substantial bonuses. A bonus is not really part of one's monthly salary. It is a part of one's compensation. Are we limiting anything at all by putting this in? I am not necessarily objecting to the \$480,000; it sounds like an awful lot of money. When I compare this to what senior public servants are drawing by way of salary, I shake my head and think, “Thank God, I am not in the Minister's seat!” I would not want to tell them that I am going to pay someone \$480,000 and they cannot get their back pay. We heard about that yesterday.

What are we really talking about in terms of the annual salary? Will we be assigning them houses as well? Are we going to be providing Mercedes Benzes and BMWs, in addition to the \$480,000? Are we going to be providing them with bonuses that are 50 or 100 per cent of their salary? That does not really say anything at all. Is the Government really serious? Tell us something that is serious.

We move on to the new parts. Clause 33(1)(e) is under regulations of air navigation. Part of the work of the Civil Aviation Authority is now to make regulations to certify airmen and air operators. That is a logical activity of the Aviation Authority. That certainly seems fit. I wonder why it was not included the first time we debated the Civil Aviation Authority Act. It seems logical that is what they should be doing.

I understand that at present the pilots of BWIA are required to be certified by an authority in the United Kingdom and that certification from the United States has not been accepted. I understand that there is a move to accept certification from the United States.

I was in a discussion recently on this and certainly I have no particular difficulty with certification in the United States. I am not sure how many schools or agencies in the United States certify pilots. I do not know how it works, but I am sure that the United States probably has more certified pilots than anywhere else in the world. They do not seem to have any greater number of accidents than anybody else, so I do not have any difficulty.

2.10 p.m.

Mr. President, then it was whispered to me that a minister's son who is certified in the US and not under the British system, is trying to get accepted by BWIA and cannot because he has the American certification instead of the British certification and therefore this has been stuck in here. [*Interruption*] The Minister could say what she likes but a little birdie told me this in the ear and I just passed it on and when I cast my mind back to the Dental Profession Bill that we did some time ago I thought, Oh, boy—[*Laughter*] are we doing this again?

Mr. President, I had some difficulty with clause 41(2). It says:

“The Director General may take such steps as are necessary to detain such aircraft or airmen.”

Now you really have to go back to 41(1)(a) to understand what they are talking about. What they are talking about is that if:

- “(a) the aircraft (is) not airworthy; or
- (b) the airman (is) not qualified or physically or mentally capable for the flight; or”

he may be intoxicated or whatever,

- “(c) the operation would cause imminent danger to persons on the ground.

- (2) The Director General may take such steps as are necessary to detain such aircraft or airmen.”

Mr. President, the use of the word “detain” is unfortunate, because “detain” means something very different from preventing the aircraft from flying or preventing the airman from operating the aircraft. It is a very different thing. To detain someone is to tie them up, to lock them up or to hold them in some way. I find it extraordinary that the Director General should literally be given powers of

arrest under circumstances that may not really warrant it. He should not be given the power to detain an aircraft. This means that he literally has it in his possession. That is different from saying that he could issue instructions to prevent it from flying or from going onto the runway or something of the sort. To detain it, however, I think is wrong. I am not going to ascribe any particular motive to the Minister, I do not think that is what she intended when that word was put in there. I would like to think, however, that when it comes to committee stage we could do something to correct that.

Mr. President, clause 42(5) talks about the tribunal in terms of appealing against an order of the Director General and so on. It says:

“Members of the tribunal shall be considered for their proven record of knowledge of the local and international aviation regulatory environment and their record of integrity.”

Mr. President, in this environment, with this administration they want to talk about integrity? In the first place, that is an extremely subjective yardstick. Secondly, does anybody on that side know what integrity really is? I know of a minister in the Government who asked both political parties, in the run-up to the last election, for a ministerial seat. That is integrity? The person is now a minister in the UNC. That is integrity? That cannot wash, Mr. President! That makes no sense!

Mr. President, clause 48 struck me as being peculiar in the extreme. If you look at clause 48(2), (3) and (4), basically, what it says is that the Authority can make an operator liable for services or charges of the Authority, presumably navigation use and that sort of thing. Whether or not they are actually used, whether or not the aircraft “is in or over Trinidad and Tobago at the time when the services to which the charges relate are provided and whether or not such services are provided from a place in Trinidad and Tobago.” These requirements may be imposed upon the operator of any aircraft, whether or not it is in or over Trinidad and Tobago at the time of the service. Mr. President, what on earth does that mean? Does that mean that planes flying around in Uruguay are going to be billed for services from Trinidad and Tobago? It makes no sense! Unless we have an explanation from the Minister as to exactly what she is talking about, to a layman like myself, it makes absolutely no sense whatever! If somebody could explain it I would sit. *[Interruption]* I will take my seat and you can explain it. Clause 48, can you explain it? Would you like me to sit? *[Interruption]* Then rise and explain it.

Mr. President: Hon. Senator, make your contribution, please.

Sen. D. Montano: Exactly, Mr. President, we get some irrelevant crosstalk that means even less than what this means.

Sir, I would ask the Minister merely to explain clause 49 to us. It is not that I am objecting to it. On the face of it there must be a reason somewhere behind it and I will allow the Minister to explain it. Mr. President, I was concerned with respect to clause 49. I quite agree that the Director General must have the right and the powers to stop things that are causing interference with navigational aids and that sort of thing. The right, however, to enter a person's premises, of course, is a very significant right and I would, at least, ask the lawyers in our midst here to have a look at that.

Clause 49(2) says:

“Upon the service of the notice, an authorized person may enter the premises...”

I do not know under what circumstances that notice is prepared and I do not know whether or not it is the customary thing, at least, to go with a warrant or a policeman or something of the sort. The right to enter just like that seems to me to be a breach of a person's constitutional rights and I would not want to be party to something like that, so I would draw that to the Minister's attention.

The other thing I would like to point to the Minister is clause 55. There are certain prohibitions here setting out the circumstances under which an airman and an aircraft cannot operate. One of the things that I realize the Bill in this form has, in fact, completely omitted, is the transitional provisions allowing certified airmen and certified aircraft to continue flying until they are certified under the new Act. When you read the transitional clauses, in clause 32, it does not actually deal with the certification of airmen and aircraft. It means that immediately as this becomes law, we completely ground BWIA and I do not think that was intended. I think we need to have a clause somewhere allowing certified airmen, mechanics and aircraft to continue to operate until they are recertified within a period of time under the new Act.

The other problem I had was clause 5—and I mentioned it on the last occasion—which deals with advertising on airplanes or whatever and, again, I spoke of it on the last occasion and the Minister, on this occasion, has said nothing about it.

2.20 p.m.

Now, I do not see anything wrong with planes being used to advertise, unless, of course, they are getting in the way and they are dangerous and so on, but the

Bill makes provision for that. Not the least of which, Mr. President, it means that immediately the logo has to be removed from the side of every plane coming here. So BWIA has to remove its logos immediately from all its planes because that is advertising. They do not do it “jus’ fuh so”; they do it to promote the airline. They have their logo and their colours and so on. It means that everything has to be taken off.

Mr. President, that cannot be right. This is 2001. This is the age of free trade and open trade and we want to ban advertising? Mr. President, “come nah”, I mean, even on the BWIA planes now you get advertising on the little TV screens and all of that, “nothing wrong with that”. If you do not want to listen to it, do not, but at least it is there for your interest, information and enjoyment if you like it. I mean, good heavens, what is the rationale for this? I do not understand. To me it makes no sense at all and I would like to see that section deleted.

Mr. President, with those few words, I would like to say that I have no particular difficulty with the general thrust of the Bill. It is a quantum leap forward from the last Bill, Madam Minister, and I commend you for that. I know you have had to work very hard [*Desk thumping*] and I know that it came late, but I was fairly sure it was going to come late because I knew that they had to work very hard. All the comments I have made, you know, it is because I have been here a little longer than some others and I know how things take place. So it is not being done because we want to obstruct. We are here willingly to do the people’s work, [*Desk thumping*] and when we have a decent piece of legislation with which we can work, we are delighted to come to deal with it and to do our best and to make it even better than it is.

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

Sen. Dr. Eastlyn McKenzie: [*Desk thumping*] Mr. President, let me say how pleased we are to have Sen. Outridge with us this afternoon. [*Desk thumping*] I want to assure him that he will feel rather comfortable with us in this Senate and we indeed welcome him very warmly.

Mr. President, I want to commend the hon. Sen. Jearlean John for the hard work I know she has put in, not only to have this Bill revised but to try to ensure that we got it before today. I know in my case it was an extremely giant effort and I want to thank her because I got it during the weekend. I want also to commend those who worked on making this Bill so much simpler than the one we had before. You know, according to my mother, when we read the one before, the Air Navigation Bill, she used to refer to matters like those when you could not understand

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in a straightforward manner that it was a “come-round go-round thing”. So I am pleased that this is not as “come round go round” as the Air Navigation Bill.

Before I deal with the one or two problems I have with this Bill, I want to complain through you, Sir, to the hon. Minister. Two weeks ago we left Crown Point in rain. By the time we got to Piarco, it had stopped raining and the aircraft stopped about 200 to 300 yards from the terminal building. It was not raining at the time but the ground—there were so many puddles of water and we had to walk from that distance into the terminal building. By the time those of us who wore shoes with our toes outside got into the terminal building, my toes and stockings were totally soaked. I came to this place with my feet wet and I am complaining, Mr. President.

I must say, Sir, that within the last two weeks the plane has been parked nearer to the terminal building. I cannot say what will happen because it has not rained since. So I hope that the next time it rains we would not have to walk through puddles of water settling there and getting our feet wet. However, Mr. President, when I got back to the airport in the night, it had rained again and there, to my disappointment and dismay, the roof in that section of the Tobago terminal was leaking and the carpet was wet. When I went there again I looked to see whether there would be any signs of the rain coming through and there was the ceiling stained, and I said, I hope we have a warranty—[*Interruption*] [*Desk thumping*]

Sen. Daly: A warrant, not a warranty! A warrant! You want a warrant, not a warranty. [*Laughter*]

Sen. Dr. E. McKenzie:—because you see—and I am just talking about the Tobago terminal. I do not know whether Sen. Dumas saw it because many times we do not travel together. So I am making that complaint. I hope we have either a warranty or a guarantee so that we could see what is happening there.

Mr. President, as I said, I noted the areas of the Bill and I want to recommend that we have some public education when this Bill is passed. For example, in certain clauses there are penalties, et cetera for certain types of behaviour. If people do not know—especially when it deals with signs around the airport. I am talking about places like Tobago, around Crown Point where people put up billboards and they tether animals and so on, I am hoping that we have public education so that the public will know these sorts of activities are illegal around the environs of the airport.

There are things like dangerous cargo. Many people do not know and I have seen them quarrelling with the airport security people. They want to carry this type of thing and they would say, "Well, tell me what is in it." and, "Is it explosive?" "Is it paint?" "Does it have this ingredient?" The people sometimes argue because there is no public education and you go to other airports and you see big signs—"Prohibited"—and they list all these things that you are not supposed to take on the aircraft with you. I hope that we will have public education on that, even if it is a pull-out from one of the newspapers.

Regarding behaviour on the aircraft, people feel they could tell the stewardesses anything they want and behave and pull at people and tug at them and actually harass people sitting next to them. I think that we need public education on these aspects of the Bill.

Mr. President, I want to just talk about two other little things, especially when it comes to Tobago, because, as people hear what is happening with Trinidad and the new airport and what have you, people are asking in Tobago, "What is happening with Crown Point?" I am sure Sen. Dumas, because he is more in the thick of that area than I am, would ask some questions about that. People still want to know: why do they have to press their faces against the gate when they are waiting for people to come in? Why, when we have two big planes bringing in people from the UK, et cetera, there are customs and immigration people complaining—somebody has to shepherd you and ask, "You from Tobago?" "Yes." "Pass through that gate." "You come from Miami? Pass through that gate." It sounds so—I do not want to call it primitive. I do not know, but I think we need to clear up the types of activities that we have governing the entry and departure of people and the use and size of the airport, and tell us what is to happen to us in Tobago.

Mr. President, there is the talk in Tobago—people are quarrelling about the closing of the waving gallery. I am not talking about one I saw in the newspapers here where people want a waving gallery. In fact, here is probably the only place in an international airport where people have waving galleries so I am not talking about that. What I am talking about is, there is an open space there, roped around, where people cannot go. You cannot use it at all. Why do they have this open space there if you are not going to do something with it? I am asking that.

Mr. President, we noted the question of the board. I am sure that Sen. Dumas would—I think we had a little chat about it and I hope that he would remember to stress it. It is not only this board, but also the fact that with boards in general, we

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have them legalized. You should have a board here, you should have a board there; the board expires and nobody appoints a new board. You do not know how you are running, whether on autopilot or what is happening. I think we need to see where we are going from there. I want to commend the hon. Minister for ensuring that there is a member of the THA on the board and I think this augurs well.

Mr. President, I go to some direct questions I have. On page 7, I thought I got that cleared up. I wondered, and this is clause 14(2) on page 10, which states:

“A member who has a pecuniary interest in a matter being considered by the Board shall, as soon as possible after the facts come to his knowledge...”

That is the time he discloses. I think that from the time the topic is brought at all, not after you have all the relevant facts, that is the time you are disclosing the nature of your interest. I think it should be as soon as the topic is raised and you know that, you do not have to wait on all the facts before you say that.

I did not understand clause 15(4) on page 11. They are talking about the planning and management and the corporate plan. It states:

“The first Plan shall take effect no later than six months after the commencement of this section.”

I did not understand that. Probably there is very good reason or an explanation. I did not understand it and I still do not understand it.

On page 12, clause 18 deals with money in the funds and I see clause 18(a) states:

“The acquisition of property by the Authority in the course of performing its functions or exercising its powers;”

What, is this going to be a separate type of acquisition from what we normally have? If so, I would like to know.

Page 14—well I do not want to talk much about it because I have been chatting with my new Senator and I know he—I would not want to take his point. I had it here before but I would like to hear him speak. I go to page—okay, someone brought up clause 25(2) which spoke about the \$480,000. I wanted to know what it included, whether that was raw cash or whether it included housing or excluded housing, travel, car, what, what, what and what. I hope that would be clarified. Somebody has already brought that up.

Page 34—for the life of me, Sir, I could not understand clause 59(1). I did not understand the phraseology. I did not understand what it meant. Some word, to me, is missing:

“Except in such circumstances as may be prescribed, aerial no aircraft in the air ...”

Something is missing. Do you agree with me, Sen. Lucky? Yes, something is missing there and rather than type it as it is, and nothing is corrected, I think that we should try and get it right. That was page 34. More or less, Mr. President, I know that other Senators would bring up other points. Those were the ones that I wanted to bring up.

I have seen that we have had some proposals for amendments and I think all of this would come in but I want to commend the Minister and the team working with her to ensure that we have a simpler Bill, more straightforward, one that we can understand and interpret. I know that there are little problems that we would like to have ironed out and I am sure that by the end of it we will have a much better Bill than the one that we are discarding. Thank you very much, Mr. President. [*Desk thumping*]

2.35 p.m.

Sen. Rennie Dumas: Mr. President, I would like to join with the congratulations offered for this professional who happens to be the Minister of Transport, and I hope that some of us will keep out of the discussion, especially when it is not their turn and they are not on their feet. [*Laughter*]

We must notice the massive changes in the version of the Bill that comes before us, and the Bill, as each speaker before me has said, represents significant change to what we were presented with at first as the Air Navigation Bill. We notice, therefore, that there is significant value in consultation and the Minister, professional as she is, was quite willing to give credit where credit was due, and to recognize the contribution that this side and the Independent Bench made to the development of this necessary and new law.

Further, the Bill also sought, in my view, to value our native wisdom and, of course, I am told, our own good, homegrown scholarship that went in to inform some of what happened here. In other words, it was not only the foreign professional that was able to contribute to this and to give effect to good drafting that should come before the Senate. Unfortunately, I cannot say that I am happy with everything that is in the Bill and, as a hopefully good Member of this Senate, I will then suggest some of the issues that we would want to consider.

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One of the first things we notice is the reduced and rational change in the scope of the purpose of the Bill. And in that, I would want to recognize that the concept—and, unfortunately, I have to refer to the old Bill, as discardable as it must be, as discarded as it has been—that the International Civil Aviation Organization (ICAO) was going to be instructing this Parliament is dropped, because, Mr. President, we must note, we must argue and urge, because you saw it creeping into legislation and you also saw it creeping into contributions made by the government team, where there seemed to be a willingness to accept that the Parliament of Trinidad and Tobago is oftentimes mandated to respond to instructions from outside of itself.

I just want to take the opportunity to sound a note of caution and also, to accept the change in the way this Bill is presented, as indicated, and to congratulate the Minister for that sensitivity and that full acceptance that our cultural roots must inform the Senate, and very little else; especially when that else comes from somewhere else. I would say it is now a Trinidad and Tobago Bill. It now says that we are going to be responding to a Trinidad and Tobago problem.

Mr. President, we note that the Authority was established for the purpose of regulations and for the purpose of ensuring safety. When one comes from a small place as Tobago, safety is a very important thing. Sometimes one sits on that plane and one wonders, if that first flight goes down, what is the situation with our little island? If the last flight goes down, what is our situation the next morning? Having looked at what the Minister has done, there is a bit of comfort in the fact that she has given some of the responses that have been given in terms of providing for safety and for protection.

We want to commend the simplicity, we want to commend the correctness of posture and we want to point out clearly, our acceptance of the view in this Bill that we do not need this pervasive idea that the Minister shall give general and particular directions to the board. We notice that change and we hope that it continues for the rest of the short time that this administration is going to continue to carry the responsibility it does now. [*Laughter*] Some of us would do well to wait.

Mr. President, we noticed that there is a responsibility for the development of policy and we notice there is a responsibility for ensuring that the inconsistencies that were pointed out are no longer in that Bill. We want to talk about, unfortunately, the Authority and we want to draw attention to the responsibility or

one of the functions given for the development and management of the civil aviation system of Trinidad and Tobago.

I think all would agree that the civil aviation system makes a critical contribution to the development of Trinidad and Tobago. It is critical to the extent to which we participate in the economic integration of the Caribbean and the economic integration in the rest of the development systems that are going on worldwide. It is particularly useful to Trinidad and Tobago, given the agreed perspective with which we face the world. But in particular, it is quite useful to Trinidad and Tobago as we deal with Tobago as part of the national integration process with which we must engage ourselves.

You see, air navigation makes particular contributions to that integration of the national system. Sen. Dr. McKenzie and I play a role in ensuring that the information transfer that goes into the national integration must occur and could occur because there was a navigation system in place for us to come in this morning, and hopefully, would be there for us to leave this evening.

We note that the contribution to welfare, and the contribution to the development of our national economy must be part of the concern of the civil aviation process. And, in particular, we know that if we are not able to guarantee the safety factor, we have a problem in terms of the number of people travelling between the islands or to these islands or to this nation.

Unfortunately for us in Tobago, we have to remember that we may be stepchildren in this process. We have to remember, and as Sen. Dr. McKenzie pointed out before, because the population of Tobago knows what is going to be debated, they take time to tell us, on most mornings before we come down, what we should be saying on Radio Tambrin. They take time to write in the *Tobago News*; they take time to call us, to instruct us on what is the posture that is appropriate for Tobago in this place, and a critical part of that posture is to ensure that in dealing with air navigation, we understand that there is a need for the airport expansion and development in Tobago. That equity and equality across the nation raises the issue of what are we going to do now that we have spent the largest single sum that we have spent on any item or unit of development in Trinidad and Tobago on the national airport at Piarco.

What is the process for development of the international airport at Crown Point in Tobago? It has been long outstanding. It has been long on the drawing boards. The question of responding to international aircraft, carrying international passengers into Crown Point, cannot be ignored if we are going to talk about

development of the nation of Trinidad and Tobago and allow Tobago to carry on its contribution to the development of Trinidad and Tobago.

The new airport was promised. I think one would remember the manifesto of the administration. One would remember the promise that was made in the manifesto for the general election. One would remember the promise that was made in the manifesto when “uncle” came to see us. [*Laughter*] Therefore, we want to ensure that they do not forget those promises; that those promises are addressed at the earliest possible time in terms of addressing that promised new airport in Scarborough. The delayed development cannot continue. Some people have a responsibility for human development and training, and those people must know that in a tourism driven segment and sector, as in Tobago, we must have that airport or we must have the airport having adequate facilities.

Just to draw two things to your attention that that airport should have; there is an argument that says, now that you are into the process of understanding the role of bunkering and the role in which appropriate pricing of fuel contributes to the marketing of the use of the airport, contributes to the marketing of tourism and flights into Trinidad and Tobago, there is a requirement for adequate bunkering facilities at the airport. There is a requirement for adequate air navigation capacity at the airport. Some of us may not know that the station in Tobago still runs air navigation services for a significant part of this area of the world. We, therefore, must keep it up to standard and we must ensure that it continues to improve and keep pace with what is happening in the rest of the world.

The argument says that we must have the capacity for turnaround. Flights coming into Tobago must have the capacity to be refuelled and turned around, because that is having an impact on our international airlift crisis. That airlift crisis is not just a Tobago crisis. It is a national crisis. We know that the nation, in particular, the Government, has received the report of the crisis team. I remember one Senator here calling it the “save Tobago team”.

What is the rational planning and management put in place to deal with air navigation in terms of that Tobago airport, including its development, including its participation in the benefits that can be expected from the change in the price of fuel and in the marketing of the use of the airport in terms of marketing Tobago as an adequate and proper quality destination for tourism travel? I want to suggest that the Government must take a hint from this.

I was asked to note and to bring to the Senate the argument that says that both the Airports Authority and the new Civil Navigation Authority are government

agencies. There is a third government agency, Tidco, that is supposed to be dealing with marketing, and there is a fourth entity and enterprise named British West Indian Airways (BWIA) that is supposed to be dealing with travel and air transport, both internationally and inter-island; intranationally if you want. What is the coordination between the national airlift, inter-island airlift and regional airlift? Is there any coordination of all these activities alongside the regulations and the strategic plans that the Government should have in terms of developing air navigation services?

2.50 p.m.

Mr. President, it is my unfortunate responsibility to tell you that in most Tobagonians' minds BWIA is treated with distrust and disbelief. We note the recent criticism coming from the Prime Minister of a neighbouring country as to the role BWIA played in guaranteeing airlift to that country and in guaranteeing service to the tourism development of that country; and we had an affinity with that Prime Minister. But then we noted the response by BWIA and, therefore, we noted that our affinity ended because there was immediate response to those criticisms from the Prime Minister and from BWIA.

We have been crying out about the service in Tobago from BWIA for years. There has been little or no response. We have never heard the Prime Minister say that he is on our side where that airlift is concerned and, therefore, we were clear that the affinity to that other country seemed stronger than the affinity to the island of Tobago where our serious problems were highlighted. It is my unfortunate responsibility to put it before you.

We note the composition of the BWIA board. We note that there is very little influence, if any, from the Tobago end of this twin-island State, as to what is the policy and programme of BWIA. I would just want to share a few things as to the implications of that.

We received notice that some time around the 28th of this month or, if there is a delay, around the 4th of the next month there will be a change in the aircraft used for Tobago. There will be a change, maybe, in the ownership and structure of the entity that will be carrying that aircraft and there will also be a change in the size and type of aircraft used. The implications for the average citizen of Trinidad and Tobago may not be as large as for the citizens of Trinidad and Tobago who live in Tobago. We note that there would be a problem.

The first flight coming to Tobago will not be able to carry enough cargo and will not be able to bring the newspapers, therefore, while you in Trinidad are able

to take up a newspaper on your way home at 11.00 or 12.00 in the night in Port of Spain, we may receive our first newspaper some time around 12.00 or 1 o'clock, 12 hours after you; unacceptable; totally unacceptable. It cannot be acceptable that an entity in which we have such a large stake, which is setting up an organization to respond to our air navigation needs, could be the one that is visiting that upon us.

A newspaper is only the simplest example I used. It will hold well for the likelihood that we could receive our notices of sessions. It would hold well for all information and negotiations between entities in the country or among entities if you wish. It may have impact on the reliability of exports from Tobago's nascent and emerging industries as well as reliability for imports into Tobago. In other words, it cannot be acceptable that this can be allowed to go on.

We go further. We note that in terms of BWIA, again, the itinerary to Tobago is a tack-on. In some cases the flight comes from Tobago as an incidental, a tack-on to an international flight; so you get that first service. The plane leaves to go foreign and if it comes back in time, then you have a tack-on flight to Tobago again at the end. That is the service that we are receiving and, certainly, that cannot be acceptable.

We have a situation where we have spent years in developing the Heritage Festival. The Heritage Festival comes off in July and this is the change time for BWIA. What insensitivity! At the same time or a few months after that, we are expecting Tobago to participate in that Youth Cup Festival, the Under-17 World Cup. We have put a stadium up there. How are we going to get people who may wish to see the United States of America play Brazil in that stadium if BWIA does not have a programme? What about the Tobago/Trinidad demand for seats? If you try to get a seat now I am sure you would not get one.

Then, finally, what is the marketing programme for traffic, transport and air navigation that is jointly managed among all these state agencies? I am suggesting that we have a serious problem and Madame Transport Minister, your job has now begun. We are clear that it cannot continue. As Government you have the responsibility because these agencies are under your influence. Tobago is suggesting that you get together with the people in the Tobago House of Assembly; get together with the people in BWIA and fix the matter. It cannot continue.

Finally, if the price of fuel goes upwards, the price increase is passed on to the consumers—and we have had a constant rise in prices over the years—if the price

of fuel used by BWIA and other carriers has gone down, should this not be passed on to the commuters between Trinidad and Tobago directly as a price increase or indirectly as an increase or improvement in the type of service? I am suggesting that we have to look at that possibility.

Mr. President, we come to the board and we note the nominee of the THA as one of the eight members, and that is good. But again I was asked to express the fear, because reality faces you after the law is passed, how it is implemented. The implementation goes a little beyond the intent and becomes a demonstration. In the Tobago Regional Health Authority the board is not in place, despite the fact that nominations to that board were made by the THA. Therefore, the nexus between the right to make the nomination and the actuality of having the nominations made, has arisen. It holds for the Tobago Regional Health Authority as it holds for a number of other boards: our representation on these boards has been nonexistent.

I am told that there are two representatives on two boards since the new THA has come into being, both because of the quick action of the individual Minister. Tobago again believes that that situation tells them that despite what the law may say, the reality of implementation may not be there.

Just in case we feel it is boring, I want to bring to your attention what it means when the Tobago Regional Health Authority is not in place. This is the period within which preparation for the building of the Tobago Regional Hospital is expected. The executing agency is expected to be the Tobago Regional Health Authority. The contracting agency, therefore, must be the board. If the board is not in place, then who does it? One does not want to be uncharitable and suggest that the Government is prepared to act directly, going around the THA in this important project. Therefore, one would say that if one wants to remove the possibility of that suspicion, then the responsibility of the Cabinet of the country to appoint the board has to be executed immediately.

You see, Mr. President, the suspicion is that there may be some people who believe the project is too big for some people to handle. Therefore, it may be a direct avoidance of transference of that responsibility and authority and that there may be some conspiracy somewhere else to ensure that this project is not in the hands of this board. Let us remove that suspicion by appointing the board. So I agree with the Minister. We are quite pleased that she has the nominee, but we have a problem with the execution when the period of legislation is over.

We on this side have some questions. There is a very good definition of an airport, aerodrome and so on, but in local parlance we ask: Is this an airport? In

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clause 33(5) is there any reference to building codes, certificates of completion, physical development planning and the measures that go along with it? When we look at the things we must take into account in accrediting an aerodrome or an airport as an airport and what restrictions we would have for certification, we have a problem in terms of the Tobago airport. People have problems, because you may or may not know, Mr. President, that there have been reservations on the use of land around Crown Point Airport going back 20 years.

In fact, the ruination and political embarrassment of a certain individual from Tobago has been credited to that restriction. An owner of property, an owner of value, was unable to access that value because there were restrictions placed on his use, sale and transfer of property in very close proximity to the airport. Therefore, that led to financial problems and certain things. Regarding restrictions and adequate compensation, while provision is made for it, there are questions as to whether it is adequate; whether adequate provisions are there.

Mr. President, questions have already been asked about acquisition and so on and we have dealt with that in, at least, three of the Bills that came before us in recent times. I think that matter has been exhausted, but still, I would urge the Minister to look carefully again at those areas to ensure that citizens do not end up deprived, either of value or of capacity for their own, individual, family or community development.

3.05 p.m.

We note the piece on finances. The provision of a fund, the application of that fund, and in particular we noted clause 17(2)(c)(ii). I wonder if it is really the intention that the Authority acts as a lending agency to its employees so that interest on loans made to employees become a significant part of the fund.

We note the limitation on the salary award. Some simple calculations tell me it is around US \$5,000 per month. I happened to have been an officer in a public sector trade union, and I want to tell Mr. Trevor Oliver and others that the State is ready to pay \$480,000 a year to public officers and I am interested in the structure of that.

I was wondering if it would not be more useful to make the requirements for salary and salary negotiations and determination of conditions and service for employees, the preserve of the CPO, as has been done elsewhere. The hon. Minister may want to consider leaving those things to the people who have the time, the training and the expertise in that area.

Clause 33(3) says that the regulations should be subject to negative resolution. Why would you want to subject the regulations that are so important and that play such a critical role in national life, to a negative resolution? I would have thought that you would want to make sure that the widest possible participation, both in terms of policy and programming, as well as administrative intent is satisfied in the widest forum of the country. I want to suggest that the Minister may need to consider making that subject to positive resolution.

We come to safety. I have a query. Why is clause 48(1) under “safety”? Why should these charges be under “safety”? When I looked at them I wondered if these contributions would not end up under the finances and the fund or whether they might not be misplaced. Someone asked what does 48(2) mean? And what are the standards that are going to be used in 45(1)? How are we sure that these regulations are going to avoid the whimsical? Again we note 45(2) is by negative resolution.

In 59(1) we note that provisions are made for people—I would leave that out. That was discussed already.

Clause 60(1)(c): I was wondering why did we leave out passengers from the list of people who do not want to be offended by abusive language and insulting words and so forth? As a regular passenger, I think that we should consider including “insulting language and behaviour to passengers” as being relevant because some of these people on the aircraft can be very insulting themselves and I do not think that the regulation should be one way.

I close my contribution by pointing out that one understands that the Civil Aviation Bill helps to set up a critical part of the soft infrastructure for running the airport. The airport has been the product of a very large outlay of public funds and nothing should be done to delay the implementation of the relevant programmes and marketing activity as well as the development and management plan for that entity.

As one speaker before me alluded, we would not want to believe that that money would fly away or that it would be misplaced, as some others that may have flown through that same portal or similar portal, or which may have been simply misplaced in the books of an entity.

We know in Tobago that one small part of either of these two amounts; either the amount that cannot be found or the one that has been spent on the present facility; leaking on our heads; wetting our toes; being abusive to our bodies when we go there—and I am not saying that facetiously and with any pride. It gives me

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no pleasure to point out that the entity is defective. In fact, I hope that the same mistakes would not be made when you build the one for Tobago. Thank you.

Sen. Rev. Daniel Teelucksingh: Mr. President, let me begin right away, continuing where others have left off, even when we started with that now abandoned Air Navigation Bill, making reference to the new \$1.2 billion airport.

The latest concerns on the airport came from media reports with such headlines as—and do not tell me we were not worried after spending so much of public funds. Headlines such as this one:

“New Airport faces threat of downgrade—”

Fears that the Federal Aviation Authority may downgrade the new airport from a category 1 to a category 2 facility.

3.15 p.m.

Do not tell me we have not been concerned. We will always be concerned as long as this matter remains unresolved. That in itself I think, though, sounded so hilarious, since the same FAA kept the old dilapidated airport which I think was in category 10. The same FAA that seems to be giving us trouble will retain the old airport in category 1, but threatens to downgrade the new airport. I have a problem with that. I will tell you what I mean.

It was good to read in the press about the hon. Minister's trip to Washington. I believe she took a trip to Washington. It is not everything we believe in the press. I hope that would yet save us from some embarrassment. But let us hope for a good report from the oversight audit of ICAO. I think it is ludicrous when one considers the amount of money, time and effort, the various contractors, not to talk about US consultants, including Birk Hillman—not consultants from elsewhere; United States I am talking about. As far as I understand, most of the sophisticated equipment at the airport is approved equipment used in the USA and produced in the USA, by other airlines, and yet we have to keep our fingers crossed in Trinidad and Tobago for the okay that should be given by the International Civil Aviation Organization and the FAA—all US-based.

I am talking about the irony of this. I am looking at the injustice, too, of this. Something reeks of the kind of humiliation and indignity reserved for Third World countries; the kind of imperialist re-colonization tactics that developing countries as Trinidad and Tobago continue to experience; the big stick of unfair conditionalities. I am worried about that, and it is so disgusting. Most of our

consultants came from the place where these two organizations are based, and yet we seem to be under pressure and I am worried about that.

You talk about international partnerships. The playing field is not level at all, as far as the relationship of the First World, Third World and developing countries is concerned. I have to ask myself, when I read those bits and pieces in the newspaper—nothing was said in the Parliament, anyhow, about the visit—why must our Minister, almost on the completion of our new airport, with all that kind of support—a minister of Government of this small country—rush off to Washington? That bothers me. Why must legislation be hastened? That is a question we have to ask in small countries and proud countries and good countries as ours. Why must this kind of legislation be hastened to please our “bosses” somewhere? I have to ask that question. I want to add that it seems as though our crawling days are not over, and I detest the attitude of the large and wealthy nations whose policy is to keep smaller countries under control, in a state of perpetual subordination and dependence. This is how I interpret what is happening right now.

The new globalization is just another gimmick I see to ensure that we remember who are the “big chiefs” in the so-called global village. This is a reminder. It is a farce. The whole globalization trend is a farce just to remind the smaller nations of the world who are the real bosses out there. This is how I respond to the trip of our Minister and the kind of pressure we seem to be getting from the same organization that talks about a convention.

Let me refer us to one or two small items in the Bill. We notice that the Minister began with clause 2, the interpretation clause, on the word, “aerodrome”. At least she gave me the idea that the concern of the Bill is not only with—I am adding Piarco and Crown Point; not only that. But do we not have in Trinidad private airstrips and heliports? The Bill is almost silent—except for that small explanation she gave in the interpretation of the word “aerodrome”—on the monitoring and administration of these private airstrips. We have private airstrips in Trinidad and there are many in Colombia also. We have private airstrips in Trinidad! We have heliports in Trinidad, just as there are in other countries. Personally, I feel that this is an omission in the Bill. I feel that more time should be spent by the drafters in zeroing in on the private airstrips and the heliports, other areas in Trinidad and Tobago where planes can land and take off.

It is possible, one of these days, that there can be a private airport in Trinidad, not a private landing strip, such as we have in Campden and other places. We can

have a private airport. Where in the Bill are provisions being made for that? For national security reasons and also for public safety in air travel, why is this new legislation so silent with only allusions to private aviation activities? That is one observation.

The other one—a few other speakers made reference to it—is in Part VI, the question about finance and appropriations from the Consolidated Fund. I have been trying to get some definitions from my colleague, Sen. Daly, on “appropriation”. “Appropriations by Parliament from the Consolidated Fund”. How are we to interpret “appropriations”? Are these grants to your state corporations? What is the meaning of “appropriations”? In the Minister’s budget, is he going to say “for this corporation we are putting aside so much from the Consolidated Fund”? Is this a subvention? Well, then, I still have some problems with clauses 22 and 23. The question of borrowing from government sources, I want to link that appropriation interpretation and the problems I have in understanding “appropriation”. Clause 22 says:

“The Minister with responsibility for Finance may, on behalf of the Government out of money appropriated by Parliament for that purpose, lend money to the Authority...”

So if it is a grant, you do not have to lend, you just have to release. I have a problem with that. But more particularly, clause 23(1) states:

“The Authority may, with the approval of the Minister with responsibility for Finance, borrow money from bodies or persons other than the Government.”

Now how much money? I know the hon. Minister of Finance made a very wise comment recently. Now we need to look at those concerns, especially the state corporations that have been hijacking—that is a good term to use here—the treasury. I want to put clauses 22 and 23 within the context of what one report referred to as a loss in the treasury of \$1.7 billion. It may not be true. Maybe it is not lost, but it is absorbed by state enterprises, and the report includes some of those state enterprises. The question we want to ask is—and I am coming to clauses 22 and 23—who gave permission for these state enterprises to receive all of these moneys, amounting to so many million—\$1.7 billion?

Now does it mean, in clauses 22 and 23, that between the Minister of Finance, maybe, and the Minister in charge of this Authority, that the lending can go on and it is a blank cheque? Is there a blank cheque guaranteed in clauses 22 and 23 to the Authority for the borrowing of moneys, both from the Consolidated Fund and also from other non-governmental agencies? It may be foreign borrowing. It

is something that we need to look at. Personally, I believe that we need to have—even if that permission should be given—some kind of ceiling to borrow, beyond which there should be parliamentary approval. Something is wrong with that kind of permission that is given there.

3.25 p.m.

I need to draw your attention to clause 59(3) of the Bill which says:

“A person on board an aircraft in flight who is intoxicated to such an extent as to give rise to a reasonable apprehension that he or she is likely to endanger the safety of himself or herself or the safety of others on board the aircraft shall be guilty of an offence.”

Listen to this one. A most interesting clause! In another regulation 49(2)—I think that is still in force—regulation 18 says:

“No person shall be at the airport while he is under the influence of any intoxicating narcotic drug or liquor.”

I find that something is wrong here. I am not getting at those people who love their drinks. I am looking at an inconsistency in the legislation. I am talking about the legislation in front of us. Why is the legislation so concerned about persons who are intoxicated? Why in the earlier legislation, the regulation is so specific? The old regulation and the new one have something to say about alcohol use at the airport. I did not put it. I have noticed this.

Under the welcoming flags at the new airport, at the entrance of the glass dome rotunda, there is a carnival type stall to welcome you in a shack with a disgraceful looking sign, “Beer Garden”. I would like to know how much rent those fellas are paying for that place in a \$1.2 billion airport. The rent is not my only point.

The irony of ironies is that today, the new legislation raises the question of alcohol consumption. Yet, it is sold from entrance to departure and from flight to destination. Something has to be wrong. If this is the Chicago Convention we are following, then the people up there must realize something has to be wrong in any kind of encouragement in the use of liquor, otherwise, our bosses would not have put that in. The question I ask is: Why is the legislation so concerned with intoxication while on flight? Why do we have to almost ignore that by encouraging the use of liquor as we do? It took a very long time for us to say in our airport, that it is a no smoking zone. I do not want to deprive anybody of their happiness and enjoyment whenever they are by the airport.

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We are dealing with these famous clauses. If clause 59(3) of the Bill is good for Trinidad and Tobago and BWIA, then, it must be applicable to all airlines. I feel that BWIA and all other airlines should not serve or sell alcohol on an aircraft, if clause 59(3) is to make any sense whatsoever, whether it came from the Trinidadian drafters or the people who drafted the Chicago Convention. Something has to be wrong with that clause. Let me correct myself.

Sen. Daly: Clause 60(3) at the top of page 35.

Sen. Rev. D. Teelucksingh: Once again clause 69(3).

Sen. Daly: 60(3)

Sen. Rev. D. Teelucksingh: I have it. Clause 60(3).

Sen. Dr. Moonilal: Like you went to that beer garden.

Sen. Rev. D. Teelucksingh: I am glad that I am not flying. [*Laughter*] I think that I am safe here. It is all a big joke because there must be big business for either the large international airlines or the bosses of other industries. Maybe the liquor, who knows? The intentions of the Convention are good, but if our Bill is in harmony with it, then such inconsistencies as we have in clause 60(3) create problems for the proper implementation of the legislation before us.

I close by associating with all the other Senators in complimenting the Government not only for this legislation, but also for other pieces of legislation in recent times, for realizing that there is need for them to slow down and pay attention to the responses from people who are not on the Government Benches. It is not only those who are here, but also those from the wider public who respond to the legislation from time to time. This has been a very interesting process, in that, the Government recognized it came with a Bill and was very excited about it. The Government received graciously, the criticisms and comments of all of us who found that something was wrong with the legislation and decided that it must have a new draft.

Personally, I am not an expert in the technical aspects of the Bill, but I appreciate the efforts of all those responsible for summarizing the concerns on civil aviation.

Thank you.

Sen. Wade Mark: Mr. President, I rise to support this very important Civil Aviation Bill, piloted by Sen. The Hon. Jearlean John. The purpose of this Bill is to establish the Trinidad and Tobago Civil Aviation Authority, for the regulation

of all civil aviation activities, for the implementation of certain international conventions and the institution of safety requirements and practices regarding air navigation in Trinidad and Tobago.

This Bill is another giant step in the Government's policy to promote and re-engineer critical services for sustainable development in Trinidad and Tobago. It is all designed, at the end of the day, to improve the quality of life of the citizens of this country.

Before proceeding, let me take this opportunity to welcome our new Independent Senator who joined us today.

This issue of civil aviation is significant to Trinidad and Tobago and to the world as a whole. For Trinidad and Tobago, this industry plays a very important role in national development and life. This particular piece of legislation is long overdue because the historical records will reveal that an effort was made in 1991, by the then administration, to bring into effect a civil aviation authority bill. It took this action-oriented administration to bring this piece of legislation to Parliament. We would have a very important piece of legislation that would govern this very critical industry in the future.

The fact is that we cannot underestimate the significance of an efficient civil aviation industry, not only to our existence, but also to our development, particularly as was mentioned by Sen. Rev. Daniel Teelucksingh in this new globalized economic order. Trinidad and Tobago is a small island state and has no choice but to continuously look outward for its development.

3.35 p.m.

It is through the aviation industry, as an example, that our goods are exported. It is through that industry as well, that we receive a large number of friends, visitors and family, all of whom contribute to the gross national product of our nation. Trinidad and Tobago in the management of its business must be fully conscious and au courant with developments in all sectors of activity, particularly aviation. And in the interest of good public management, one must be able to respond very quickly to the major and the emerging challenges of a changing international environment. Recently the management of the civil aviation industry has been the responsibility of what has been known, and is still known as the Civil Aviation Division that is located within the bowels of the public service of Trinidad and Tobago. But with the increased sophistication, and the sheer dimension of the task as a consequence of the contemporary nature of the industry, the appropriateness of the current structure to effectively provide

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appropriate management has been thrown into sharp relief hence the reason for this Bill before this honourable Senate.

By transforming the Civil Aviation Division into a body corporate and all that it entails, the Government is consistent with its policy of recreating public service institutions to be more sensitive and more proactive in order to meet these new challenges.

Mr. President, consistent with the policy, is the strategy to identify the core activity of the public service body, in this case the civil aviation industry as I mentioned earlier. It is to assist us in whether—and this should engage us here today because it has wider implications for an efficiently, effectively organized and managed public service and public administration in the Republic of Trinidad and Tobago. It allows us to assess whether this particular Authority or division can be improved by restructuring, by rationalizing, by decentralizing because, after all, the aviation industry as we know it, is comprised essentially of three components: the airlines, the airports and, of course, the air-traffic management systems.

Mr. President, the aviation industry is undergoing rapid systems change from the perspective of technology, which, to a large degree is driven by market forces and increased demand for cheaper air travel. In addition, the prevailing global economic order of increased competition has resulted in what has been described as an open sky policy. This means that there are more operators of airlines flying planes with the consequence of increased demands upon the regulatory bodies or authorities for appropriate approvals, and an inter-air space and competition for the lucrative routes. To cater for these increased demands in managing the air flow so as to prevent, if not minimize the possibility of air crashes, it is moving from voice-base systems or control of air traffic flow to database systems.

The use of radar technology and the appropriate qualified personnel was an issue a couple of years ago. However, we are now looking at the satellite. Some of these changes which are being initiated in other places such as the United States, nevertheless impact upon us. If we are to maintain our credibility and benefit from the required interaction of other locations, our systems have to be both acceptable and compatible. We are all aware that British West Indian Airways has made some efforts at upgrading its fleet. The Government has since opened the new airport in Trinidad and Tobago.

Mr. President, when I listened to some of the contributions made earlier—sometimes I would like colleagues, if they are making insinuations, to at least be

forthright and name people. I raise this point in reference to Sen. Danny Montano's statement when he painted a broad brush, making all kinds of wild allegations about Ministers, and he did not have what we have described as the testicular fortitude to identify that particular Minister and, therefore, every Senator on the Government Front Bench is tarnished. It is quite unfortunate, and I think that Members of Parliament should be able, if they have evidence of wrongdoings, of corrupt activity, to come to the Parliament and identify these people. That was the same Senator, who, a couple of months ago alerted the country, alarmed the nation about some "hacker" and, it is unfortunate that these things take place here.

I would like to challenge him when he returns to the Chamber to let us know the name of the Minister, or Ministers, he alleges that is involved in all kinds of hanky panky arrangements. I raise that point because it is an area that is of concern to me sitting where I am at this time.

One of the other components I would like to look at is the management of what is called the civil aviation area, particularly, safety issues.

Mr. President, the current management of the aviation industry is conducted by the Civil Aviation Division. Because of the increased demands on these committed public officers, it is inevitable that a reassessment of the suitability of the current structure of the organization be developed, as is required in terms of reassessment. If one looks at the current Civil Aviation Division, one would see that sometimes it does the following things—

3.45 p.m.

Sen. Daly: Is the Senator suggesting that no authority was ever appointed under the Trinidad and Tobago Civil Aviation Authority Act, 2000? He said, two or three times, that the management of civil aviation is under the division of the Ministry. I was under the impression that an authority had been appointed under the Civil Aviation Authority Act, 2000.

Sen. W. Mark: Mr. President, the point I am making is that we have a new Act. A new authority is emerging and one of the institutions that governs civil aviation activities in Trinidad and Tobago is the Civil Aviation Division. When we look at the functions of that division today, it advises the Minister on the issue of licences to pilots who wish to be registered in Trinidad and Tobago. The division, as it stands today, negotiates the competing interests concerning routes which originate or terminate in Trinidad and Tobago. It is also responsible for all aspects of safety in the management of air navigation.

At this time, the staff is made up of 167—170 persons. It is in the legislation. The staff of that division is responsible for air traffic control, among other things. They deal with the investigation of accidents; they register aircraft; they regulate flight schedules. Given these activities, it is more appropriate that this particular division operates within the model that we are proposing, that is a corporate body, in order to promote the most efficient delivery of core activity. That is the regulation of civil aviation to the public of Trinidad and Tobago.

The corporate structure that is being proposed should make it easier for those involved in the management of this industry to respond to the more rapidly changing requirements of the international environment in civil aviation. It should allow them to respond better to issues arising out of international management and to review the various statutory instruments—staffing as well as training. It should generate funding, as we have identified, that would promote self-sufficiency in their operations.

The key human resource responsible for the safety of air navigation is the air traffic controller. He is the nerve centre of the expeditious flow of air traffic. That is why I was a bit concerned when my colleague, Sen. Rennie Dumas, made reference to the function of determining terms and conditions of employment for staff at this new authority being located in the hands of the Chief Personnel Officer.

I can tell you as a former minister in charge of public administration that one of the difficulties that we had in trying to upgrade the terms and conditions of senior public officers was the major job evaluation exercise that must be undertaken to determine, for instance, the changing functions and values of jobs and categories in that context. Luckily for the Trinidad and Tobago Unified Teachers' Association, they took the opportunity very early and ran. That is why teachers today have been able to complete their job evaluation exercise and enjoy a certain level of remuneration second to none. They have never experienced that in their whole career. I am sure, as a practising teacher, the Senator would agree with me. He has, in fact, enjoyed a reasonable advance in his condition of employment.

I would say that if we are to deal with the terms and conditions of air traffic controllers it is my view—and it is the Government's view—that it is best for the Authority to have that kind of wherewithal; have that financial strength and capacity to sit with the relevant parties and negotiate collective agreements. That is quite possible and reasonable. I think it would make for more efficient and effective management of the operations of that particular industry. I think that

greater flexibility would work in this particular circumstance, in the interest of the workers, compared with what currently obtains in the system. I think that the evidence is quite stark as to what is taking place at this time.

I think my friend wanted to raise a point.

Sen. Dumas: Mr. President, just a quick comment. I assure him that TTUTA is an organization with which I have had the honour of being a member of the industrial relations committee for more than 17 years; Tobago officer for six years; chairman of the Tobago Regional Committee for quite a number of terms. I suggest that we did nothing by accident or luck. In fact, his Government responded to the requirement by the teachers that they should be delinked from the service.

To be consistent, I would also want to know—

Mr. President: Senator, Senator, unless you are taking a point of order, asking for clarification or giving a very short explanation; not another contribution—

Sen. W. Mark: I understand what Sen. Dumas said. We are on all fours on that matter. I am not deviating and I am not contradicting what he has said. I am making the point that what the Government is attempting to do in this piece of legislation is to allow greater flexibility to address the concerns of the staff. To my mind, it makes for greater flexibility in the context of what we are trying to advance at this time. If we are to advance the interests of public officers or workers in other sectors, we have to take into account the need for greater decentralization of operations. That is very critical, so that the management can have greater flexibility in addressing the issues that come up from time to time.

Sen. Rev. Daniel Teelucksingh made reference to our approval rating. It is a fact that, in 1998, Trinidad and Tobago was advanced to the Category I status. As far as we are concerned, we intend to stay there and I am sure the hon. Minister will respond to that in a more detailed way.

Those who manage the country's interest in that particular industry must have the appropriate organizational flexibility, knowledge and independence to perform their task. This aviation industry is too critical for us to allow it to continue in the way that it has been functioning. It requires appropriate organizational flexibility and knowledge as well as independence for the management to perform their tasks. This is what the Bill seeks to accomplish, among other things.

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Mr. President, I recall in 1998 Cabinet upgraded an advisory committee comprising of stakeholders to that of an implementation team, to supervise the process of the transformation of the Civil Aviation Division to a corporate structure. This is what we have here, again, based on the work that has been done.

Mr. President, the Bill proposes to establish this authority to be managed by a board of nine persons with proven experience in civil aviation, law, financial management, economics as well as human resource management. Most importantly, we have representation, for the first time, from the Tobago House of Assembly and from the Environmental Management Authority and that is a very big advance. Of course, the Bill is very clear on the powers of the Minister in giving, for instance, specific or general directions to the Authority that should be consistent with the Act.

What is very interesting about that particular piece of legislation is that when we look at, I think it is Part III of this Bill, which deals with the planning and management—It is Part V of the Bill and says in clause 15(1):

“On the coming into force of this Act, the Board shall prepare for the approval of the Minister, a three year corporate plan (hereinafter referred to 'the Plan'), in respect of the programmes or goals of the Authority.”

It went on to say what this plan should entail and should be comprised of. This is a very big step in the context of planning and managing operations, particularly, at the State level. In this instance we feel that such a corporate plan should operate in accordance with prevailing principles of good corporate governance.

I think that in the context of modern governance today, Mr. President, it is important that we pay attention to this new concept that is being implemented and practised, not only in the public sector, but I dare say we have to encourage the private sector as well to implement these principles of what is called good corporate governance.

Mr. President, given the complexity of the modern marketplace in an era of increasing global economic volatility, economic bodies such as public authorities, as well as companies, should have a strong operating ethos. This is what we refer to as the principles of good corporate governance. This is a requirement to ensure the proper governance of companies, not only to advance the economy but, as I said, to ensure proper governance in the country.

I would like to share with the Senate some of the principles that good corporate governance incorporates. It incorporates the exercise of leadership, enterprise, integrity and judgment. It incorporates and determines the corporation's purpose and values. It monitors and evaluates the implementation of strategies. It ensures compliance with laws and best practices. It ensures that no person has absolute power or discretion. It constantly reviews its processes and procedures to ensure effectiveness of internal systems of control. It assesses the performance of all of its directors. It ensures the competitiveness of the corporation by the use of technology.

Mr. President, the principle of good corporate governance ensures that at all times the legitimate interest of the shareholders, in this case the people of Trinidad and Tobago are, in fact, protected. The principles of good corporate governance, obviously, given clause 15 of this piece of legislation, should be incorporated in whatever planning and management that is being conducted by the new Authority.

The Civil Aviation Authority in this instance emerges from solid antecedents and with the corporate structure underwriting the management of civil aviation; we anticipate greater ease in the maintenance of our reputation in the industry. As I understand it, the Bill that is before this House reflects wide consultation among the various stakeholders in this industry. We are all desirous of ensuring that the transition that is being attempted here from this particular division, from the conventional public service organizational structure to a body corporate, would be seamless as possible.

We would like to keep and retain our aviation professionals. We would like to recognize their contributions. We are confident that the new corporate structure would promote better management of the human resources, given the demands of the civil aviation industry, so critical to continued prosperity of our nation.

We further recognize that with the new corporate structure every effort should be made to strengthen the incorporation of what we have described as the principles of good corporate governance, not only in the public sector but in the private sector as well.

This particular piece of legislation is long overdue. It is a very historic piece of legislation. I think that it will do wonders and it will help to strengthen our aviation industry. It will allow the aviation authority to have greater organizational flexibility. It would allow us to ensure that our professionals are retained because there would be greater flexibility on the part of the organization

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to provide the professionals within that industry, with the appropriate terms and conditions necessary and consistent with their qualifications. I feel it is the piece of legislation that we should all give our collective support to because it is taking Trinidad and Tobago and putting it on modern footing in the context of the aviation industry today.

I have no hesitation in giving my total support to this very important piece of legislation piloted by hon. Jearlean John, Minister of Transport.

I thank you very much, Mr. President.

4.05 p.m.

Sen. Martin Daly: Mr. President, well I suppose, as usual, it falls to me to bring the bad news. I would first wish to associate myself with all the kind things that have been said, through you, Mr. President, about Minister Jearlean John and her willingness to, essentially, bring a new bill in response to the difficulties of the Air Navigation Bill.

What I am about to say I would, in no way, wish to be taken as a detraction from that. The fact is that she is not only open-minded, I would liken her to Houdini, because, until the office of the Chief Parliamentary Counsel and the Ministry of the Attorney General intervened in this matter, the Minister was in the grip of incompetent legal advice. Regrettably, we still have a Bill which, although it is a great improvement on the last, if we pass it in its present form, it would simply make us look silly, and if I want to be silly I play in a J'Ouvert band, I "doh" pass legislation. I am particularly put out that, because those who so incompetently advise the Minister took so long in giving their incompetent advice, a major flaw in this legislation still has not been corrected.

I refer to the fact that it is absolutely necessary, contemporaneously with the debate of this legislation, to put forward amendments to the Airports Authority Act. I will not be fobbed off by being told that, in order to avoid duplication, amendments to the Airports Authority Act will be laid, but I am going to be very brief in order to show why I consider it important that we have these amendments contemporaneously with this. First of all, I say as an aside—I am sure that many people are going to make the point—I wonder what is the cost to the country of all these authorities we are setting up. Every other week we are setting up a new authority and a new board to do this and all of that, but that is by the way. I would simply like to make the point—there are many things that still have to be corrected in this legislation—that we have not as yet got over the difficulty of the duplication. I would like to show why it is important and where it is going to lead us.

In clause 10—well this particular page is not numbered but in clause 10—well, I will read it first:

“The Authority has the exclusive right to provide the following air navigation services within Trinidad and Tobago:

- (a) aerodrome control services at international aerodromes;
- (f) air navigation facilities...”

Now, it seems fairly clear to me, therefore—and I hope to be correct in this—that when one reads that clause in conjunction with the definition of “aerodrome” which, I quote:

“...also includes an airport which has the meaning given to it under the Airports Authority Act;”

and then you look at the Airports Authority Act and you see that Piarco and Crown Point, and I quote:

“...are hereby designated as airports under the management and control of the Authority.”

How do you resolve the conflict between clause 10—which says this Authority, that is, the Civil Aviation Authority, has the exclusive right to provide these various things, including aerodrome control and international aerodromes—and the Airports Authority legislation which puts the control of Piarco and Crown Point under “the management and control of the Authority”? Now, if this can be resolved, that is fine, but I would like to know what is the answer. It is quite important because, I do not care what promises we have made to the international authorities, this has to work. I do not care if it is the darkest eleventh hour; this legislation has to work.

Suppose, therefore, and let me speak allegorically, the chairman of the Airports Authority is a “red pigeon” man and he has a philosophy of “red pigeonism”, and the chairman of the Civil Aviation Authority is a “blue duck” man and he has a “blue duck” philosophy, and they both have overlapping management and control of Piarco and Crown Point. Is the red pigeon going to slay the blue duck, or vice versa? I think it is quite important that we do not look so silly. I have a lot of difficulty with this. Despite all the best efforts and all the promises we made, we did get this new Bill relatively late and it is quite hard work trying to understand all these things.

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So my first point is, I am extremely uncomfortable in passing this Bill with this conflict not resolved. I feel it ought to have been possible to at least resolve now any conflict that—I see a conflict between the management and control of the two principal airports and I would have liked to have had that resolved before now. It is not just a question of, you know, passing legislation to take the toilets and the doubles vendors—to leave them under the control of the Airports Authority and to take things having to do with flying and put them under the control of this new Authority.

This is absolutely fundamental. If I am wrong about this, I would be very, very happy to be shown that I am wrong, but this is what happens when we have to do things at the darkest eleventh hour, and I say without reservation, I know it is no fault of the Minister. She has to take advice and she has to act on the advice she was given and I assume they will ask for a refund from some of the foreign advisors who put us in this predicament in the first place.

The other thing I am concerned about, Mr. President, and it is becoming—there are two more things I am concerned about. They are of more general concern. It has been the fashion of successive governments to set up structures and then seek to pass the relevant legislation, and I am getting a little fed up with it. I suspect that that is why we sometimes get into difficulty, because we are not legislating on principle or on policy, we are legislating to suit the offices that have already been distributed in advance of the legislation. I am getting a little anxious about it.

We abolished the Public Utilities Commission (PUC) before the Regulated Industries Commission (RIC) legislation came into place. We declared the amendments to the BWIA Act passed before they were passed, before the airline, to use the immortal words of the Prime Minister, was “Ackerised”. I do not know why my good friend Sen. Wade Mark did not talk about good corporate governments in those days, even though he was in Opposition. The telecommunications division gave out telecom licences before we passed the Telecommunications Act. We had a virtual admission about that and I am not going to go into it in any greater detail.

We have an Interim Planning Commission that has put out all sorts of documents and has all sorts of “hefés” and “sawatees” doing things and we have not passed the Planning Bill. It is quite clear—although it appears now from the contribution of Sen. Wade Mark, I may be wrong—from the Act, whether they have been appointed or not, that we have a Civil Aviation Authority that was functioning under the Act we passed in 2000. I dare say that they, de facto, like

all these other commissions and “sawatees”, were put in place before we passed the legislation. So I am concerned about the fact that we set up these empires or subministries within ministries and then come to pass the legislation with vested interests already in place. I wonder how it fits with good corporate governments, to see that we are going to have to fit the director of civil aviation and his deputy into a new structure into which we have now brought in a director general.

Now, I do not know what kind of insecurity requires a director to be called a director general but when—I suppose it goes back. You know, we have shortened *jefe civil* to “hefé” and it now has a pejorative meaning, so I suppose a director general is like a *jefe civil*. The general gives him a little extra oomph, you know, or gives him a few more blue pigeons or whatever it is they survive on. Now, the point is, Mr. President, these are problems that have to be resolved and it is clear they are not yet resolved. So the office of director general is now superimposed over the office of director of civil aviation. Why? Why can we not simply have a director of civil aviation, albeit in a new corporate governance form?

Then, Mr. President, we have the growing problem of this so-called integrity legislation. So here is this little annoyance and it is a personal annoyance. In fact, it should personally annoy everyone who serves as an Independent Senator. These “hefés” here are going to be making expensive executive decisions. “Dey could keep ah man plane on de groun” at a cost of a zillion US dollars a day or a week. “Dey doh” have to file any declaration of assets and liabilities. However, under the legislation that we have passed, judges have to file assets and liabilities declarations, Independent Senators have to file declarations of assets and liabilities, and so too do all kinds of people who are not involved in executive and expensive executive decisions.

These “fellas”, however, have to file a declaration stating whether they have any pecuniary interest and so on. I would not take up time reading it. They have to sign a piece of paper saying “dey ain’ have no financial interest in what dey doin’”. Yet we have a let-out clause, 14(2), that if they have a pecuniary interest they will disclose it. So I “doh” quite understand if it is—I mean, I am a little confused because you sign a paper saying you have no interest but then it says, if “yuh” have one you declare it, so I am a little confused. That is the problem, of course, when you try to legislate financial integrity in this way. If someone is asked to serve on a public service board or committee or commission and they do not have the “broughtupsy” to know that they ought not to serve on it if they have

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a conflict of interest, legislating this is not going to make them know that; but there, again, it is silly.

Clause 14(1) and (2), to my mind, is inconsistent. Anyway, what about the frontmen. Sure, you could sign a paper and say, “I have no interest”, but you could have a frontman who has an interest in some decision which you are making. How would you ever know that Mr. Smith, who has some interest in something this Authority has to do, is a close friend of the director general, Mr. Jones, or is his—and I mean this in a commercial sense—sleeping partner? I am aware of matters concerning sleeping partnerships that have come to the attention of the authorities quite recently. They have found themselves in some difficulty about these things where you make a concession to X and then you find out X is really a front for Y, and it costs a lot of money. So all this integrity legislation is a complete waste of time, but clause 14(1) and (2) is inconsistent.

On top of that, why should they be held to a lower standard, when they are making executive decisions, than the rest of us? I know what I should do if they persist with this foolishness about Independent Senators declaring assets and liabilities. It is very clear in my mind what I should do if they persist in that foolishness. Maybe that is the plan. Maybe they want to denude the country by all of this legislation. They want to make it impossible to get people to do public service and just get—well, I would not ever use the word again since I have made my point. Maybe they would like to get people with less testicular fortitude than that adverted to by Sen. Wade Mark. I would not use the “F” word again since I know it causes offence. So I have a difficulty. If you are going to hold people like judges and Independent Senators to these high standards, then these goodly people must be held to that standard too.

I would, through you, Mr. President, direct everyone’s attention to clause 32(1):

“Members of the board of the former Authority shall continue in office in accordance with their respective instruments of appointment...”

So I take it, contrary to what was being said by my good friend, the chairman, that we have already made the transition to good corporate governance from a civil aviation division to an authority. However, I would like to know whether these members of the Authority have already provided their declarations, which they should have done under section 14 of the Act that was passed in 2000. Have they provided those declarations, or are we going to continue them in office by passing

this Bill, including clause 32, when they have not filed their declarations that they have no interest in the matters over which they have good corporate governance? I would like to know. I would like the Minister to tell me in simple and plain terms whether she is in possession of declarations given under section 14 of the existing Trinidad and Tobago Civil Aviation Authority before we pass any legislation continuing anybody in office.

4.20 p.m.

I just give those examples, Mr. President, to say how silly some of this legislation still is and how uncomfortable I feel with it, and how I would have liked to have been able to raise some of these points if we had time available, but I recognize that the Minister did not initially get reliable advice. How could she? She was advised by a foreigner who did not know anything about what legislation pertained in this jurisdiction. Clearly, they did not assign him any junior counsel or local attorneys who could have set him on the right track; not that he should not have asked in the first place, but press for the refund. [*Laughter*] Press for the refund.

Nothing I say detracts from the commendable attitude taken by the Minister about this legislation, and I know we are in a bind now, but I have some difficulty with this, Mr. President. If I cannot be satisfied on these points, I really do not know what to do. It has already been put about by these vested interests that the Senators are holding up everything. I know for a fact that that has been put about, that the Senators are holding up everything, but that is hardly surprising because the undermining of democracy is the constant task of vested interests. So, we hear people saying we really should not have a public service; we really should not have a tenders board; this Authority is not subject to the tenders board; and now the Senators must not insist on passing something that makes sense. All of that undermines democracy.

The fact is—and I do not want to underline what has happened today—that the points we have raised have been accepted as valid points. So, why should it be put about that the Senators are getting in the way of this legislation? We see people in the newspapers saying it is not only the Minister who is apparently interfacing with Washington. I see people in the newspapers talking about how they are joining the fight to make us International Civil Aviation Organization (ICAO) compliant. What? At any price? We must be ICAO compliant at any price? We must have this overlapping legislation? We must pass anything so we can claim? And then what? In three or four years' time, we will come back and say this has not worked—here are all the appropriate amendments. Every single

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package that comes from the Parliament office now has an Act in it to amend something that we passed in a rush in the last session. I remember it well, because we protested these things.

I am a little uncomfortable, Mr. President. Until these questions are resolved, I really do not want to subscribe to this. Not because I do not want us to be ICAO compliant. It is a bunch of international civil servants who have to go and tell their boss, “We get it in Trinidad too.” They give them a checklist. It is like selling insurance. They give these international civil servants a checklist. “You take Africa. You take the Caribbean,” and tick them off on a list. We get them to pass this and that. Sen. Als is here, so he will know to what I am referring. So, when they make a good collective bargain with Trinidad, they go to St. Lucia and say, “Look Trinidad did it. You do it too.” And then you go to Grenada and say, “St. Lucia and Trinidad have it. You do it too.” And the international civil servants are getting a bonus for how many countries they have roped in to this absolutely silly idea.

What concerns us about safety at the airport is not the structure that is in place. It is whether the airport has potholes, whether the air traffic controllers are comfortable. That is what determines whether we are safe. Not whether we have some director general in an office. That is what determines whether we are safe. We need a reality check sometimes. I believe Sen. Prof. Deosaran gave a ringing thesis on the last occasion about the differences between reality—how good we are with theoretical structures and what is actually happening in the field.

I am afraid, Mr. President, as someone who has accepted a responsibility to take part in this Parliament, I am still unhappy about this piece of legislation and quite frankly, if anybody thinks I am obstructing it, so what. Worse things have been said, but I am not comfortable that we have not dealt with this question of under whom we are putting management and control of the major airports, and I hope we can resolve it. I hope that I am wrong and I will be shown something in the Interpretation Act, or somewhere else, which shows that we do not have this duplication. I fear we do, and I do not see why I should be forced to put my name to that, because other people, at great expense, monkeyed around with this legislation for far too long and then came up with a very simple solution that a first-year student in law school could have recommended.

Thank you, Mr. President.

Mr. President: We will break for tea at this stage. The sitting is now suspended until 5.00 p.m.

4.26 p.m.: *Sitting suspended.*

5.01 p.m.: *Sitting resumed.*

Sen. Prof. Kenneth Ramchand: Mr. President, I want to begin by thanking the Minister for paying attention to the debate on the Air Navigation Bill and for recognizing the need to rationalize existing civil aviation legislation.

I have to join some of my colleagues in regretting that there was too little time to carry out the text alongside text comparison that would be necessary to ensure that all the overlaps have been eliminated, that the conflicts have been eliminated and various anomalies have not been introduced. There just was not time to do that kind of detailed work. May I add that we have been clamouring for research assistants for years; we just do not have the help to carry out this kind of work. So I have to apologize to the Minister for not being able to offer too many suggestions about areas of overlap.

I have to warn Senators who complain about globalization turning us into barefoot and crawling villagers that they are in great danger of being accused of joining the last of the "Commies". Every year one or two of us complain about the way in which larger countries, particularly the United States of America, tell us what our copyright and civil aviation laws should be. The legislation comes here and we have to do it pell-mell, to pass our legislation quickly to conform to their timetables and to make sure they do not penalize or victimize us in any way. I join Sen. Rev. Teelucksingh in being very fed up of that kind of pressure being accepted by our Government. They cannot put you under pressure unless you accept to be put under pressure. So I have to join Sen. Rev. Teelucksingh in complaining about that and suggesting that that is another reason why we do not have time to formulate our legislation properly, to reflect on it and debate it satisfactorily.

Mr. President, in the new Civil Aviation Bill, 2001 there are two sections that indicate very clearly that the Minister and the Government are interested in the question of safety and in the regulation of air navigation. I think that is a very good emphasis. Those sections are very clear and I think they would be very effective when the legislation is passed. If we are amalgamating or conflating all our civil aviation regulations—and I would return to the question of safety in a minute—then the thing that emerges should not be exclusively related to safety, should not have such a major emphasis on just one aspect of civil aviation legislation.

For example, the Explanatory Note says that:

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“The purpose of this Bill, is to establish the Trinidad and Tobago Civil Aviation Authority, for the regulation of all civil aviation activities...”

I believe that the Bill should reflect, not only safety but also matters that are of concern to the travelling public and the citizenry. Therefore, I think the comments that have been made about the Trinidad and Tobago air bridge are quite in order and there ought to be something in the legislation to indicate that the Civil Aviation Authority has, within its brief, the ability to make interventions to ensure that that air bridge is continuous and safe.

If I might use a personal example, Mr. President. My son .his wife and four children have been trying to get tickets to come to Trinidad for Christmas and they cannot get any. If they are willing to pay £750 they might get it. At Christmas time and New Year there is such a shortage of space on the airlines that the fare goes up and event he increased fare you can hardly get, you have to book months in advance. Something has to be radically wrong with the relationship between the Government of Trinidad and Tobago and BWIA that this situation is allowed to exist.

The Civil Aviation Authority ought to have some kind of power to negotiate with BWIA and let them know that the interest of Trinidad and Tobago, as a whole, and the interests of the citizenry have to be regarded as something as important as, if not more important than, the profits that BWIA can make as a business. We said this during the debate on the Air Navigation Bill.

I was hoping that there would be something in the new legislation or in the Minister's presentation to give us some assurance that those arguments about the air bridge and flights to Tobago and Trinidad internationally had been taken on board; that steps were being taken to ensure that whatever slack exists would be taken up, that the citizenry should not suffer, and that the tourist industry—I never thought that I would be one to be speaking on behalf of the tourist industry—but there it is: we want a tourist industry. The tourist industry should not be allowed to suffer because BWIA is afraid it would not get all its profits.

I think that either in the clauses of this Bill or in its presentation I would have liked to have some kind of assurance about the air bridge and international flights to Trinidad and to Tobago.

I want to go back to the question of safety, which I see as an important part of the Bill. Safety is so important, but when I look at Parts IX and X of the Bill, I do not see anything about whether the equipment in the control tower has been

upgraded or is about to be upgraded. I do not know whether the air traffic controllers are going to get better terms. I do not know whether now that we have finished building the terminal we would be getting on to the real business of creating an airport; whether we are going to widen the taxiways. What are we doing to have a real airport rather than a shining terminal?

What are we doing to ensure that there is safety and that we are going to have larger runways to accommodate the traffic that is expected? We are told that all the international airlines are fighting for space in the new terminal, so all kinds of planes from all over the world are going to be coming here. What are we doing to make sure that air traffic control has the right equipment, trained personnel and happy workers to ensure the safety of all these people? When are we going to address the question of runways and so on? I hope the Minister will tell us, if there is a phase two, when will the building of a real airport begin.

We have had a number of comments, incidentally, on the question of expansion, providing services for people and protecting the tourist industry. I am getting fed up. Year after year we come here and talk about Caricom. We talk about cooperation with our Caricom neighbours and citizens being able to travel from one island to another. Sometimes, in the distant past, we celebrated the West Indian team.

Sometimes we lament the decline of the University of the West Indies. We talk a lot of 'West Indian' and 'Caricom' and our Caricom heads meet every year to have a good time and discuss important issues. Yet the question that Dr. Eric Williams raised, when the Trinidad government became responsible for BWIA, of there being an airline contributed to by all the Caricom territories; an airline which could take all the passengers from London and bring them—on Monday everybody goes to Jamaica and they get distributed to other islands and Tuesday you come to Barbados—find a way of working together with an airline that can serve the interests of these separate and, it seems, competing islands.

I think that although the Bill may not be the place to talk about the necessity to revive the idea of an airline, what Dr. Williams wanted BWIA to mean was a British West Indian Airline: an airline that belonged to all the governments of the former Federation. That is what he wanted and he got rebuffed. I feel that if all this talk about Caricom and West Indian is to mean anything, the time has come for us to fight for the regional airline again. This might be one of the ways of dealing with the problem of there not being enough flights for passengers to come to Jamaica and Barbados and it not being economical for Trinidad and Tobago,

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Jamaica or Barbados to do it alone. The matter is not specifically mentioned in the Bill, but I feel it is a question that any talk about a civil aviation authority ought to involve us in.

Again, Mr. President, several Senators have said that we come here and discuss the establishment of boards and authorities week after week, bill after bill; we come and set them up. We have long debates about the relationship between the board and the Minister: how shall the power be distributed between them. We talk about their funding and so on and then we go away. Then you go home and wonder how is this board going to work. We have the question of the balance of power between the ministry and the board and we have the question of funding.

I was very disturbed to receive in the mail a piece of correspondence about the Regulated Industries Commission, which makes me wonder what is going to be the fate of all these boards, commissions and authorities that we are setting up. What are we doing with the money that sometimes people give us or lend us to establish them? When we have established them, where are we getting money to run them?

5.15 p.m.

I have to assume that the piece of correspondence that I have received is authentic and that I am not being set up. It is addressed to Mr. Roy Boyke, Special Adviser to the Prime Minister, and it is from Mr. Ken Snow, Executive Director, Regulated Industries Commission.

Mr. Snow, who I believe has left the country, is the Executive Director, Regulated Industries Commission. He was an international consultant brought in under the terms of the IADB Grant to help to institute the RIC. Of course, we went ahead and abolished the PUC before setting up the RIC. [*Interruption*]

Mr. President: Sen. Prof. Ramchand, before reading the letter, I hope there is a direct connection with the contents of that letter and the Bill before the Senate.

Sen. Prof. K. Ramchand: Mr. President, I would take your guidance. Shall I explain the connection?

Assent indicated

Sen. Prof. K. Ramchand: The connection is that I am showing that we are coming here week after week and month after month, setting up boards, authorities and commissions but there is no follow-up and that very often we

mismanage the funds associated with the establishing and the running of those boards.

Mr. President: I think that is sufficient explanation.

Sen. Prof. K. Ramchand: So I may go ahead?

Mr. President: No.

[Laughter]

Sen. Prof. K. Ramchand: Ah, Mr. President, every match has a second inning “eh”. I will take my zero but I would come back. It would have been interesting—

Mr. President: Sen. Prof. Ramchand, I should tell you that the question of cost of the various authorities is ancillary to the main purpose of the Bill; and while you can make reference to value for money, I do not think a letter from a totally different entity would help the cause at all.

Sen. Prof. K. Ramchand: I think I can summarize the argument in the way that I have been doing. What the information that came to me showed was that we have not performed well in the establishment of the RIC; that we have spent much of the money and the work has not been done and we are still in quite a mess; and that the IADB has written to the Government, twice, complaining about our failure to perform; and that our failure to perform there has put at risk the possibility of help in establishing the Telecommunications Authority.

That was by way of a digression and a warning about the kinds of problems we can run into.

When the Air Navigation Bill was debated there was a clause in the schedule about which I complained and that was that the schedule would have given the Minister the power to repeal laws without coming to the Parliament of Trinidad and Tobago which had made those laws. I congratulate the Minister on removing that clause from the schedule.

I was going to say that I was very unhappy that the press did not seem to now about this outrage, and did not let the population know that this is the kind of threat to our democracy; I regret that the press was not sufficiently a watchdog over our democracy to pick on this and publicize it. I will leave that for another occasion and just be grateful that the Minister recognized the danger and

withdrew the clause. But there are still some questions concerning ministerial control.

I want to look at clause 3(1), (2) and (3) of the Bill before us. These three subclauses are replacing section 11(1) and (2) of the Civil Aviation Authority Bill 2000. I would just like to read this section of the Act because I want to compare what we had then with what we now have, and I want to show that what we had then established a proper balance between the functions of the Minister and the authority of the Board; whereas what we have now, tilts the balance in favour of the Minister.

11(1) says:

“The Minister shall give the authority such specific or general direction not inconsistent with the provisions of this Act. And the Authority shall give effect to such directions.

(2) All directions referred to in subsection (1) shall be in writing and signed by the Minister.”

So when we look at clause 3(1) it says:

“The Minister shall be responsible for the general administration of this Act, and for the development of policy on air navigation for Trinidad and Tobago.”

No quarrel with that—

Sub (3) says:

“Directions given in furtherance of this section shall not be inconsistent with the provisions of this Act and shall be in writing signed by the Minister.”

No problem with that, but when you go to clause 3(2) a little “may” and a little “shall” got exchanged.

“In furtherance of subsection (1), the Minister may give to the Board any general or special policy directions...”

They are not saying that he “shall” as they did previously. Now he “may” which means he may not or need not. So if he has some special policy direction to give, he may give it to the Authority or I presume he may give it to somebody else. I want to know why we have replaced “shall” by “may”. I am not happy with the rest of that which says, “...with which the board shall comply.” He may give them and the board shall comply. This is authoritarian language of somebody

telling you “I may do this and you shall comply, you are bound to comply, if you do not comply, I will thump you.”

I find that clause 3(2) waters down, or disturbs the balance that was established in section 11(1) and (2) of the Act of 2000. Since there are many places where bits have been lifted out of the 2000 Act and put in this Bill, why did they not do that here too? So I am not at all happy with the rewrite of section 11(1) and (2) into clause 3(1), (2) and (3), especially 3(2) which diminishes the force of subclauses (1) and (3).

5.25 p.m.

Mr. President, I have tabled an amendment to clause 16(4), an issue raised by Sen. Montano. Clause 16(4) in the 2001 Bill says:

“Where the Minister's response includes a direction to vary the plan, the Board shall prepare a revised Plan and submit it to the Minister within thirty days of being so directed and the Minister shall likewise respond within thirty days.”

I do not have a problem with that, but when you look at the 2000 Act, there is a section 16(4) which runs as follows:

“In directing a variation of the corporate plan, the Minister shall be guided by the objectives and policies of the Government.”

That has been removed entirely. So my amendment suggests a new clause 16(4) which is a slight modification of the 2000 section. The amendment says:

“In directing a variation of the corporate plan, the Minister shall be guided by the established objectives and policies of the Government.”

Because I find even the 2000 one was weak. I do not want the Minister coming and saying, “this is the policy”. I want to know it is a policy that has been established and accepted. This is the established policy. So I am proposing that clause 16(4) of the 2001 Bill be replaced by the 16(4) in my amendment, and that clause 16(4) that exists in 2001 be renumbered clause 16(5).

Now, Sen. Montano pointed to something about which I am also very concerned. There are some sections in the Act of 2000 that indicate there was a real concern that the thing should be done right, and section 7(2) of the 2000 Act is very clear about the necessity to balance the needs of airport expansion and the regulation of air traffic et cetera, with other kinds of needs. And so, section 7(2)

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states in the clearest possible terms that, in whatever it is doing, the Authority shall ensure:

“...as far as is practicable, that the environment is protected from any detrimental effects associated with the operation and use of aircraft and for this purpose the Authority shall observe the provisions of the Environmental Management Act and any other written law.”

It is explicit that “the Authority shall observe the provisions of the Environmental Management Act and any other written law.” What we have, instead of section 7(2), which has been deleted, is the thing that Sen. Montano quoted—I think it was at clause 33(5):

“The Authority in considering the grant of a licence...”

shall observe—

- (a) any adverse effects on the environment; and
- (b) any disturbance to the public, from noise, vibration...”

This is pretty weak and it eliminates the need to pay attention to the Environmental Management Authority and to the Environmental Management Act. Why should the Authority not conform to the Environmental Management Act? Why is the Authority being told, “just make sure they do not make too much noise and issue too much smoke”? Tell them they must obey the Environmental Management Act, unless there is some real pressing reason why they cannot. I have tabled an amendment to deal with that.

Again, I agree with Sen. Montano that there are many things which have been left out of the 2000 Bill, and the Minister does not explain why they are being left out. I have in mind—if the Minister will have the time to think about it—in the 2000 Bill, clause 6(c), (e) and (g), and I would like to know why there is this new clause 10(f) in the 2001 Bill. I am not saying that there is anything sinister about it, but it really would be nice to have an explanation as to why those have been excluded.

My last point which I am making on behalf of my colleague, who may or may not develop it later, has to do with clause 7, where the Authority is being given power to be an investor. It states:

“Without limiting the generality of section 6, the Authority may—

- (a) with the approval of the Minister, take up and subscribe for or otherwise acquire shares in any company or firm or participate in the formation of

a company provided that such subscription or acquisition is not in relation to a company regulated by the Authority under this Act;

- (b) with the approval of the Minister, enter into a partnership or an arrangement for the sharing of profits;"

I do not understand the corporate world all that well, and I do not understand why the Authority—whose focus ought to be air navigation regulation and safety and a vision of the airport, the aeroplane and travelling and so, which would be a benefit to the citizenry—why an Authority that has such an important brief, and which has been given such an important focus, should now be distracted by being told: "You could go ahead and acquire shares in any company or firm, or participate in this, or enter into a partnership." So unless the Minister can explain that hidden-up, or wrapped-up—going-round and coming-round, Sen. Dr. McKenzie, is that it? Unless some sort of go-round, come-round is going on here, and the intention is that the Authority now has the power to buy up failed airlines et cetera, if that is the case, tell us in plain English that the Authority has this particular function too. But I just do not understand why an Authority, which is such a very important body, as far as the control, regulation of air traffic and safety—why an Authority, which already has that onerous responsibility, and one that would take so much time and energy and skill—why are they being asked to be financial experts?

My colleague has also pointed out that if that is going to be done, why is there no reference to it in clause 17, under "Finance"—where we are being told that "the monies in the Fund shall comprise"? Well the moneys in the fund should comprise profits made from all these investments that they are also being invited to make in the earlier section.

I close with a kind of general summary which I hope will mollify the Minister. I really am glad that she took on board the criticisms made of the Air Navigation Bill and I think, given the time within which it has been done, this is a very commendable piece of legislation, much improved from what had been before us, and I am encouraging her, and I am sure Sen. Rev. Teelucksingh is encouraging her, through you, Mr. President, to take her time and listen to what is being said in the Senate and reshape her legislation, and I am sure we will end up with a very satisfactory Bill.

Thank you. [*Desk thumping*]

5.35 p.m.

Sen. Glenda Morean: Mr. President, the whole manner of presentation of this Bill is another example of the Government reacting to situations, rather than following proper principles of governance in the discharge of its responsibilities towards the people of Trinidad and Tobago. I say this because this is our second attempt at rushing through this Bill. I appreciate that the Government is now faced with certain time constraints in its effort to put its house in order, in relation to the safety laws governing its airports operations. The question I ask is: Why was this not done before? It is not as if this situation has just been sprung upon us.

The Minister will correct me if I am wrong in saying that since 1999, and perhaps before, the United States Federal Aviation team voiced certain concerns with respect to our safety laws or lack of it. Some of us may be aware that our national airline has been having serious difficulties in accessing certain North American routes. About a year ago, I read in the newspapers that BWIA was adding Atlanta to its destination. Then, I read that the starting time was delayed. Then, there was silence. This is because our national airline has been having problems with the fact that we do not have our house in order. This has been going on for some time. The Government, which is a major shareholder in BWIA, must have been aware of the problems encountered by the airline in its quest for additional routes and should have been acting post-haste to correct the situation by ensuring that adequate safety laws were put in place. Mr. President, note that the word I used is “adequate” and not just passing laws willy-nilly. For what good is a boast of stating that we have enacted 300 or 400 statutes, if we have to spend so much time coming back to amend legislation or repeal them thereafter. We have placed the cart before the horse.

There was a big rush to open the new terminal without first ensuring that it satisfied all the international safety requirements, among other things. Why was there this need to open this airport at that particular time and then to be faced with the ignominy of the threat of having our civil aviation system downgraded? A birthday should not be a reason for opening an airport.

You would recall that on the last occasion when we were dealing with the forerunner to this Bill, I raised the question of the lack of adequate fire fighting facility at the new terminal. The Minister said that \$12 million to construct a new fire station had been set aside. I have to ask the question: Of what good is that to the country, having the money there and not the facility in place?

The failures within the civil aviation system of Trinidad and Tobago to date, would leave the International Civil Aviation Organization no choice but to downgrade our system to a category 2 status, in spite of the excellent safety record of our national airline and the tireless job done by our air traffic controllers, unless the Government gets serious about correcting these deficiencies.

I will point to some of the deficiencies. Our Civil Aviation Authority, through the office of the director of civil aviation is responsible for the publication of an Aerodrome Information Publication (AIP) which should accurately depict airport geographical and navigational information. However, the current AIP does not even reflect the existence of the new terminal taxiways and other airport information necessary for the safe operation of aircraft. I am told that both American Airlines and BWIA have already complained about this situation and all to no avail.

In fact, most significantly, one of the taxiways leading to the new international terminal called Alpha 2 has been wrongly and dangerously designated as a high-speed exit from Piarco's primary eastbound runway which is Runway 1-0. However, its design does not meet the safety requirements for a high-speed turn off, since it does not provide sufficient distance for deceleration to normal taxi speed.

This is particularly inexcusable because the Trinidad and Tobago Airline Pilots Association's Air Safety and Technical Committee and others had, before its construction, advised the relevant ministry representatives and contractors, Birk Hillman, that this design was unacceptable before its construction. The technical advice was ignored and flight safety has been jeopardized. Landing aircraft have already had difficulty decelerating safely to taxi speed using this inaccurately termed high-speed exit.

As another example of our failure in providing proper safety mechanisms, there is also an aircraft holding point, Bravo 2, on the older southern taxiway which I am told is termed the ILS Critical Holding Point, meaning that the aeroplanes on the ground may be instructed to hold there during periods of marginal weather, so as not to disturb the navigational signals upon which a landing aircraft that cannot see the ground, relies. This is not properly and, more importantly, accurately depicted on any airport diagram available to airline operators. That is another major safety concern.

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I am pointing out this not merely to be critical, but to outline the inefficiencies of the Government in its rush to have this new terminal open. To date, none of the new taxiways and several others I have not even mentioned, or even the terminal for that matter, have been officially depicted in the AIP Pilots Aid. Most of the taxiways remain not properly signed in accordance with the recommendations of the International Civil Aviation Organization and air traffic controllers have complained about this situation.

I am told that this is the sort of instruction that the air traffic controllers have been given of late: “You are clear to taxi to the apron but we do not know the names of the taxiways over there.” That cannot be satisfactory. To add further insult to our nation, some of these new taxiways are already showing signs of structural damage after less than one month of routine usage.

5.45 p.m.

Mr. President, these are not issues which can be addressed as merely finishing touches to our millennium airport but are, instead, the sort of violations of internationally established procedures which force the foreign authorities to view us as second rate. This in turn has a definite financial impact on our national airline of which the people of Trinidad and Tobago are significant shareholders—I may be an insignificant shareholder but nevertheless one—and upon which the employment of people depends. Perhaps, the Government would like us to view ourselves as second rate. Recently our very own Prime Minister got together with a foreign Prime Minister and severely criticized our national airline for going after profits. I wonder what our national airline is supposed to do. How is it supposed to operate? How can it retain all its employees, and, in the face of the impending category 2 status, would it be able to add flights to its North American destinations? Equally disturbing, not only to our local airline, but also to the foreign airlines is the fact that the new apron controllers under the auspices of the Airport Authority are not even qualified air traffic controllers. Yet, they may issue and they do issue potentially conflicting taxi instructions to millions of dollars worth of airplanes daily and, from what I understand, they are paid more than our air traffic controllers.

The fact that these apron controllers receive more salaries must appear to be not only a travesty of justice and a farce but an unequal opportunity to these qualified and experienced air traffic controllers—air traffic controllers whose wide responsibilities stretch from Guyana to parts of Venezuela. This is a matter that must be addressed by the Government, and soon, because the safety of a

number of persons relies on the efficiency of the air traffic controllers. Not only must the salaries of our air traffic controllers be addressed but the Government must also address their genuine need for better equipment, which they have stated time and again. For example, backup radios, radio frequencies, spare parts and ergonomic control centre facility, and not one conducive to long lasting back injuries and non-productivity, and such other basic and necessary tools.

If Trinidad and Tobago is to continue to provide safe and efficient air traffic services then all these matters must be addressed. Admittedly, the terminal building itself is appealing in many respects and should rightfully be so because of the amount of money spent on it. In fact, there should be something even better for our \$1.4 billion. But behind the facade and all the fanfare, safety is what is important here. For instance, the new apron control tower places the lives of the operating personnel at risk every day. It is clear to even the lay person that there is no fire escape provided for them. A single staircase seems to be the only means of entry or exit. Should an electrical or any other fire erupt, or should there be some emergency in the apron control tower, there is no emergency means of exit to safety for the occupants of this part of our airport. Mr. President, yet another safety breach painted over by a beautiful façade and another instance of sound technical advice from our dedicated and experienced air traffic control officers being utterly ignored.

Mr. President, these are some of the deficiencies and just a minor few that I have noted with respect to the safety features lacking in the new facility. This Bill is, admittedly, a vast improvement on the previous attempt and I join with the other Senators in commending the Minister for acknowledging the contributions made by all Senators who have spoken before on the previous Bill, but there is still the need for improvement. I would not repeat all that has been said in relation to the different sections, but I would simply highlight a few of the matters which give cause for concern quite apart from a number of typographical and grammatical errors which clearly show that the drafters had to work in haste. There are some fundamental aspects to which I would like to refer.

I would look at clause 5(c). I have a difficulty understanding it. It seems that something is clearly missing and I would like the Minister to address this in due course. [*Cross talk*]

[*Senator instructed about proposed amendment*]

Clause 11(1) which deals with the appointment of the board. I have had difficulty within recent times with the manner of the drafting of legislation in respect of the appointment of boards, and there is good reason for that.

Our experience has shown that where boards are appointed that are beholden to the Government of the day, one finds that these are boards that lack transparency and objectivity. This is why I suggest that in clause 11(1), there should be a board to manage the business of the Authority comprising eight persons appointed by the President and, I would like to add, after consultation with the Prime Minister and the Leader of the Opposition.

5.55 p.m.

All we have to do is look at the North West Regional Health Authority. Look at what is happening there. That certainly must be the result of political patronage—a family affair. At least the members of the board should be able to act independently. This is why I suggest this amendment.

I do not think anybody on the other side should have any trouble with my saying I have difficulty with clause 24 when it comes to removing the Authority from the control of the Central Tenders Board. Many people do not understand how items should be purchased by government bodies. We have a good example again in the North West Regional Health Authority. We have the Audi motorcar and the CEO saying to go ahead and buy it. We all know that there are procedures for tendering and that if you are purchasing anything above \$50,000, you should go to tender. No one man can say, “You buy that. Park it up in your garage.” That, we have to avoid. The only way we can avoid having such runaway tendencies on the part of the appointees of government is to ensure that there are checks and balances in place.

We talk about bureaucracy, the Government and the public service being saddled by rules and being too bureaucracy prone. This Government has shown us why it is necessary to have bureaucracy in place in certain instances. It has made necessary the need for having bureaucratic measures. I propose that clause 24 be amended thus—in fact, where there are no checks and balances, you find that, in addition to runaway spending, there are all sorts of contracts for appointments being made. While this is not the topic of discussion, it is a good example of a case where we need to establish a commission of enquiry to find out what is going on in that North West Regional Health Authority. I am not talking about the Auditor General’s enquiry, which is a different thing altogether.

Yet another clause—and this has been mentioned by several persons—is clause 33(1)(e). Mr. Brunton is here and he will know that we have—

Mr. President: Senator, you cannot make reference to anyone except Members.

Sen. G. Morean: I stand corrected, Mr. President.

On the certification of airmen, while it is true that we are anxious to avoid having to have our pilots go to England to do the conversion to obtain the Trinidad and Tobago licence; and while it is true that we can accept the licences acquired in the United States, if we are setting up an accreditation authority, I would like to be assured that there are proper regulations in place to ensure proper accreditation and that we maintain certain standards, especially in a field like this where one little error can cost the lives of hundreds of people. While I have no difficulty with the provision itself in relation to ensuring that standards are maintained, where there is a question of regulations being made under clause 33, such regulations should be given the broadest possible scrutiny to assure they are subject to affirmative resolution and not negative.

As is contained in clause 33(3):

“Regulations made under subsections (1) and (2)(b) shall be subject to negative resolution of Parliament.”

I suggest that that should be “affirmative regulation of Parliament”.

Now clause 33(5) was mentioned by Sen. Prof. Ramchand with respect to the duplication. It is a fact that we have gone through all this trouble to set up the Environmental Management Authority. In addition to that, we have a number of rules and regulations, so that, rather than have duplication, I suggest that in subclause (5), at that end of it all, we should say:

“by requiring the grantee to obtain the requisite clearance certificate from the Environmental Management Authority established under the Environmental Management Act.”

In other words, not that this authority will be the one to determine any adverse effects on the environment, but to let the applicant go to the Authority that has been set up for that purpose and obtain the necessary certificates before this particular authority can act.

I will go back to clause 26(2). It seems to me superfluous in the light of 26(1)(b). Clause 26(1)(b) is already saying “on terms and conditions no less favourable than those enjoyed by him in the Public Service”. When we go on to repeat:

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“Where an officer exercises the option under subsection (1)(b), the Authority shall employ the officer on terms and conditions that are no less favourable than those that were enjoyed by him in the Public Service.”

That really is repeated. I do not think that that was one of the corrections suggested.

There are several other minor modifications I would like to suggest. I would do that in writing, but there is one matter I would like to advocate. On the question of regulations being made under different provisions of the Bill, many of them have to deal with very substantive matters and are not merely adjectival. They should be subject to affirmative resolution.

6.05 p.m.

I have not seen any of the regulations that are really just, what should we say, procedural. They are all dealing with very substantive matters, as I have indicated, and the widest possible parliamentary scrutiny should be given to them.

Mr. President, I would like, for the purpose of not being repetitive again, to join with what my colleagues have already said in relation to some of the offending provisions of the Bill.

I thank you, Mr. President.

Sen. Prof. Julian Kenny: Mr. President, I will be very brief and I will not go into fine detail, except in a couple places. I find it very distressing to have to work on legislation which I received on Monday. We were told that we were getting it on Friday and it appeared on Monday. We have many other things to do and it is very difficult trying to pick up the pieces. This is not the first time it has happened.

We received the Planning and Development of Land Bill early. I worked on it and then we had a revised version a few days before we debated it. Now this is not the way to do things and it reflects very badly, in my view, on the political rhetoric about governance and of doing so many things.

After six years, Mr. President, I am still trying to see some order in what we are doing. We started debate on a planning bill and we are now moving on to this and I am not quite sure what is next. I know that Sen. Lucky keeps telling us that we must get it right. It is not only getting the legislation right but also getting the agenda right so that we know where we are headed. Clearly, sitting on this

Bench—and I am not speaking for everyone—the problem is that I am never really sure what is next. There was a rumour that we were meeting tomorrow and it reflects very badly on our approach to it.

In my limited experience it seems to me that legislation comes to us via two routes; one is through the Ministry of the Attorney General and Ministry of Legal Affairs which has a full complement of attorneys specialized in drafting. I mention this because I am going to suggest that in this legislation it may be somewhat inconsistent in form with some of the other legislation with which we have been dealing. The other way the legislation comes is via a legal officer in the ministry, or an interim planning commission [*Interruption*] or a foreigner. Thank you. When this legislation comes, it comes to us and then the hon. Attorney General and his staff are sometimes forced to try to pick up the pieces to try to put some order in it. Now this is surely not the way to go. I would think that, speaking as a layperson, that law really ought to follow some consistent pattern. In this particular one, I am going to give you an example of the problems that I face.

I assume that when the law evolves that there is a certain pattern, a form, to the individual law. In the case of the Environmental Management Act, the composition of the board of the authority is right upfront. In the case of the National Trust Act, the council of the trust is right upfront; in the body of the Act. We saw in the Planning and Development of Land Bill that mention is made of the Planning Commission but it is “shub” into a schedule. Mr. President, I spoke to one member of the interim planning commission and he told me it is far more convenient putting it there because you can change it more easily. [*Laughter*] This is what I am told as a layperson. Here we have a very nice piece of legislation and the board is in a Schedule. It is mentioned upfront and it is in a Schedule. Now there must be a reason for this and I am sure the hon. Attorney General or his colleague, Sen. Lucky, the Junior Minister could give us an explanation. We are laypeople. Why is there not some consistency in our legislation regarding the form of it? There has to be some reasoning. It is not just casually that somebody drafts it and drops it that way. It does not make sense to me.

I will, however, take the opportunity to congratulate the Government. I do not have Sen. Prof. Ramchand's fears about Part II, the “Functions of the Minister”. This suggests to me and, again, I congratulate the Government for pushing us into the 21st Century where the trend is not for ministerial micromanagement, but for ministerial control through policy directions. This would be consistent with the type of legislation I have read in the United Kingdom where the Minister may

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give general or specific directions regarding policy. Once the policy is there, however, then the board has to comply with this policy and execute it. The sanction that you have for misbehaviour—I use the word misbehaviour, Sen. Daly—is that you fire him, her or them if they do not comply with the policy as communicated by the Government.

I congratulate the Government and this reflects changes that came into being with the Telecommunications Bill. I think the Government very graciously withdrew and came up with—I think Sen. Thomas had suggested that it should be on policy matter and now we are seeing it in this revived form. I sincerely hope that we would also see it in the Planning and Development of Land Bill.

One of the major concerns that I have had with looking at legislation coming to us, is the multiplicity of boards, commissions, councils and so on that are established. We come here and we debate the Bill and pass legislation, and if you look into the reality of the legislation you would find that in some cases the intent of Parliament is just simply frustrated. The National Trust of Trinidad and Tobago, for example, came into being last year but it is comatose. In fact, I think that it has already got needles in the veins and it is waiting for the lethal concoction. There is absolutely no financial provision for the National Trust.

6.15 p.m.

Sen. Prof. Ramchand is not here but it may meet—but here we have created a body and in the Act it is supposed to get appropriation from Parliament but nothing happens. Sen. Prof. Spence repeated this in the last Parliament, over and over. When we set up these bodies, there should be some sort of indication, not a final cost but some kind of indication of the cost of one of these bodies, and this would be a signal to the Ministry, when we are debating it, that they have to make provision of a certain kind, a certain quantum, towards getting the particular board established. It is rather sad to see what has happened since the National Trust has been established. People think there is a trust. It exists as a body. It occasionally meets up at the Stollmeyer Castle and it occasionally proposes budgets which are promptly forgotten.

Now, why I mentioned this is that, going through the legislation which we saw on the Order Paper in the last Senate, and looking at current legislation—the legislation with which we are dealing—there was a variety of boards being set up and the hon. Minister of Finance has made it quite clear that our expenditure is not sustainable, that we have to start looking at getting more value for our dollars.

We cannot just simply go to the Minister of Finance and get an extra few million. If you look at this Bill—I think it is clause 11 that sets up the board—it does make mention of a ceiling on salary of \$480,000 a year. Mr. President, if you go into the Schedules at the end, you will see that what we are doing is moving a division from the public service into a new body. There are about 40 categories of people running from the director down to messengers and so on.

Now, people are not going to give up their status as public servants to go into the uncertainties of a parastatal body. They are going to go there with the expectation of salary increases. The air traffic controllers have already told you that they are underpaid—they are underpaid—and the cost of this thing is very difficult for me to even conjure up a cost. I think the total number of people is probably around 150 or so—and here we are dealing with the possibility of paying somebody half a million dollars. I do not know. Is it going to cost \$5 million, \$10 million, \$15 million or \$20 million? It becomes rather worrisome when you see what is reported in the newspapers about salaries being paid at the regional health authorities—\$14,000 or \$15,000 a month; \$6,500—some kind of allowance—and then a massive gratuity for every year of service.

Now, does the hon. Minister of Finance accept that we go into this sort of—
[*Interruption*]

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the conclusion of the matter now before the Senate.

Question put and agreed to.

CIVIL AVIATION BILL

Sen. Prof. J. Kenny: Mr. President, I would just like to repeat the point I was making. At one regional health authority, you hear of salaries of \$14,000 or \$15,000 a month plus an allowance of \$6,500. That was reported in all the newspapers and these are contracts which are renewable, and people get gratuities for every year of service. Now, we are creating a new board here where the upper end, the director, will be paid half a million dollars. We are going to create a planning commission, presumably the kind of salary scales will be comparable, and I wonder how the Government will be able to face up to the reality of trying to control this thing because so much of the legislation has the establishment of another body.

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Mr. President, before the last Senate we had the Parks and Wildlife Bill and it never got to debate but in the Parks and Wildlife Bill there was going to be a national parks and wildlife authority and there was going to be a chairman or a director, and then a whole bunch of people. So where are we going? What is the national policy? Are we trying to remove the public service or have it wither down to nothing, to the lower ranks of messengers and cleaners? Then, are we now aiming towards effective privatization of all the major elements of the public sector? In which case I think that this ought to be enunciated as policy.

Clearly, from looking at this Bill and some of the others, I think that we are in for a rough ride in terms of the actual costs, because when you move people from one culture into what you hope is a new culture, they will carry a lot of their old culture with them and you will pay them more for it. So it is a rather worrisome thing to me. Let me look at my notes here. Yes, I have already mentioned the question of consistency and I mentioned the financial implications.

Now, Mr. President, the final point I would like to make about the Bill is that we are dealing with, I think at latest count, about 30 amendments—about 20 of these are coming from the Government—for a piece of legislation which I received on Monday, and this afternoon I received 20 amendments to the Government's legislation. Now, this is not the way to do it. We hear talk about corporate governance and things like this. Can we not have a sort of parliamentary governance? I do not mean you, Mr. President. You do govern us extremely well, but the governance ought to be in the agenda. This is my sixth year in the Senate and I am still lost as to what is the plan. In other parliaments that I have read about, in each parliamentary session you get some indication for the next few months.

Now, we are flexible. For example, for the Planning and Development of Land Bill I gave up my Private Members' Day to facilitate getting important legislation through. For example, we have on the Order Paper a number of things. I have no idea what is coming next Tuesday until we leave.

Sen. Gillette: Then I suggest maybe you can communicate with the Leader of the Independent Bench because last week, afterwards, Mr. President, through you, I did say what we were going to do this week and I did communicate with the Leader of the Opposition Senators and the Leader of the Independent Bench and, when I moved the adjournment last week Tuesday, I also said that we would go Wednesday and possibly Thursday and what we would discuss. So I find it very difficult at this point in time to hear you say this when, in fact, we did say what was going to be done last week. [*Desk thumping*]

Sen. Prof. J. Kenny: Mr. President, I do speak with Sen. Dr. McKenzie quite regularly. I knew that we were doing the Civil Aviation Bill today. I said that I have no idea what happens next Tuesday.

Sen. Gillette: Senator, if you communicate with your Leader of Independent Senators, because we already had that discussion—[*Interruption*]

Sen. Prof. J. Kenny: Mr. President, I would not labour the point except to say that I am yet to get some picture, after six years, of what is a parliamentary agenda for a year. “Here are the major items of legislation we intend to deal with.” We have gone through, we have had legislation laid and never come up for debate. We have had cases where a lot of our time is spent on tidying up legislation. We had the Shipping (Marine Pollution) Bill. It is right up there. It lapsed.

My point is that we sit here on a Tuesday afternoon, and occasionally at other times, and we do not have facilities for getting our research done. We have to try everything possible and the very least that would be expected, in any Parliament where we have words of corporate governance, is to have some indication of what is the plan.

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

Sen. Joan Yuille-Williams: [*Desk thumping*] Mr. President, unfortunately the comments I want to make this evening, through you, will be directed to the Government and to the Minister. Unfortunately, this Minister took over when most of what I want to say was already in train and, therefore, I know that she will be in a position in which she probably would not like to be in.

However, I want to say at the very beginning that I think she needs to be very careful about what she meets in her ministry and how she handles what she meets. I think she must have got that kind of experience already, [*Desk thumping*] having come here with the Air Navigation Bill and, quite rightly, withdrawing it and trying to come with another Bill. I want to tell her that is not the only thing she should look at because she is coming out of a ministry—and for those of us who have been here, for those of us who live in the south, that ministry is the same ministry that produced that Solomon Hochoy Highway.

If you look at the manner in which it was produced, you will see some of the things that I will talk about this evening because, in terms of that highway, one day we would pass and see baskets being put on the highway for about two or three weeks and, by the next week, the baskets would be removed and yards and

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yards, almost miles, of a plastic netting would be put down. That was removed and then we would pass again and see some layers of whatever was being put down, and that too was removed, and it was a matter of trying different things without the expertise, and the cost that was going up. Other than it being uncomfortable, it involved a lot of cost and, at the end of the day, for two years we suffered.

The Minister needs to understand that is the method by which things were done. Therefore, if I were she, I would take a bit of advice and really go through all that I see there before I move out with it. Take advice and see that the method of doing things in that ministry leaves much to be desired. Therefore, I am glad that very quickly she took back the Bill, which I suppose was left there for her, put together in the same way that the Solomon Hochoy Highway was put together, and she came up with something else.

In terms of this, and I am going to be a little fair, I got a call from the Parliament on Friday or so, saying that TTPost would bring it to me on Friday and, if TTPost did not bring it on Friday, the police would bring it on Saturday and, if the police did not bring it by Saturday, I should go to the police station myself and try to collect it. So that was my experience in attempting to get the legislation to me because the police had stopped bringing documents for a long time; however, I think this time they came with it in one day.

Now, in terms of this piece of legislation, I am particularly interested in clause 10 which deals with safety and, I am not going to go through it. I am going to wait until we come to the committee stage, because I like getting to a place but I do not think I enjoy the flying or anything else that goes with the aircraft. I do not know how many people have the same experience as I, so I was particularly interested in the safety measures here. For that reason, I was particularly interested in listening to the air traffic controllers and, when they said that they were going to shut down the airport when they felt that things did not go their way, whether I was with them or not I said, "If it meant ensuring the safety of the passengers and all of us, well, go ahead and do what you have to do."

I think that if there is any one group I listened to a lot since this whole business of the airport started, it was the air traffic controllers. I was really a bit unnerved when I heard about it and then I started asking people about experiences concerning flying and what was happening. So that there is some cause for concern and, therefore, I really listened to what they had to say and I would not take clause 10 lightly at all because, clearly—and I listened to the others who

spoke about safety and I am not one into aviation but I am one who flies at some time and, therefore, very concerned about the safety.

6.30 p.m.

The second area in this Bill that concerned me was the Third Schedule, clause 26 and I think Sen. Prof. Kenny was talking about it with the public officers on this establishment. It brought me back to the RHAs and how many years now we are trying to make that transfer, and we are having extreme difficulty. We have to learn from the whole business of the RHAs how things are done. In fact, I think part of the problem with health in some areas is because some of the officers feel, “Well you are not in control of me. I do not belong to your Authority and therefore I get my instructions from another Authority.” We have had difficulty with it and I would only hope that we are trying to iron that out, because having public servants there at an establishment with contracted officers, is some cause for concern.

I was at one of the Labour Day rallies and I heard one of the leaders talking about public servants in the Authorities. I think we better not set up ourselves for that kind of intervention again. This is going to cause some problem. Any advice that comes to you will come from the Public Service Association or from public officers who are concerned about the workers on the establishment. I do not think you should go across that lightly. This is going to cause a difficulty. It just does not work as easily as we think it will work. Some of them here, some of them there. People do not want to give up what they have earned for many years, and when working alongside people who are getting much better salaries, it is going to cause a problem. So, I am hoping we will look at those two areas very carefully.

Also, Mr. President, I heard you talk about value for money. A lot of people have been here today talking about value for money and, again, unfortunately for the hon. Minister, I am saying in terms of the airport, we did not get value for money. Let me just say where I feel the Minister could intervene. There is very little she could do in some areas because when you nail things down, it is difficult to break them down again.

Somebody told me—I have not seen the airport—that the airport does not have a “human face”; whatever that means. It does not have a human face. [*Laughter*] Let us not laugh at what it means. It does not have a human face. Sometimes when people say things we tend to laugh it off, but probably they know what they mean and it is always good to listen and see what we could do to improve it.

Somebody said it was not user friendly. I asked the person, “What does user friendly mean in terms of an airport?” I was not here earlier, but I am quite sure Sen. Dr. McKenzie must have raised a “user friendly” area when she talked about the domestic terminal and the distance of the domestic passengers from the terminal. That is user friendly. Human face does not mean necessarily going out there and constructing a dome again. This is what was user friendly in terms of the domestic terminal.

For example, we used to have a waving gallery and we no longer have that. That was a cultural thing. People were accustomed to going by the maxi-taxis and waving. They have changed that. Of course, they said we have moved into modern times, therefore, people who were accustomed to doing those things, it is sad to think that this is not there for them again. We have been excluded.

I am only telling you what human face means to some people. They just feel they might have been left out. I understand that the distances where people travel from one end when they get there to the other end is quite long, and the handicapped have long distances to travel. That is not in the terminal building, necessarily. I am talking about the distances they have to go.

Then, I even heard this at the rally yesterday about the vendors who used to be accommodated just outside the terminal building. If one was going to the VIP section, one would see the vendors out there selling local stuff: doubles and bake and shark etcetera. Those people are still out there and we have moved the terminal building a great distance, so they are left out. That is what people are talking about; the human face and it not being user friendly.

There are certain little groups who feel a little detached from this billion-dollar airport, and that is what I mean when I say “a human face”. I am saying this to the Minister as she is here now, and there might be many other areas that people may come and tell us about which she, at this stage, could do on her own to make it, as they say, a little more “user friendly”. I think when she is considering people, she has to look for every opportunity that should make people feel welcome. These are some of the simple things that people have told me about. I have not been to the airport myself. That is why whatever I am saying is for those who went there and told me what they saw. This is from more than one person who went there and told me this.

All I am talking about is a “user friendly airport”. The Minister was not there when the designs were done, but she is there now, and I am quite sure, as an individual, she could understand. I am sorry she was not there when the designs

were done, because if she were there, I am sure all the mistakes that they made and all the cost overruns that we have now would have been avoided. I am giving her credit for it. [*Desk thumping*] She is one person who told me that she likes a challenge and I want to tell her that this is one of her greatest challenges. Let us see what could happen.

Somebody talked this evening about the opening of the airport. I know when the Minister got there the opening of the airport was scheduled. I think that probably was a challenge to her, because I do not see how else she would decide to open the airport so quickly. Probably it was a challenge and she took up the challenge and opened it. In so doing, and I am quite sure all of us recognize that even though the airport was so long overdue, it was opened and a whole lot still has to be done. I am quite sure all of us recognize that a lot still has to be done. I think it was haunting people because all those dates were given all the time, and all the independence and what not, and people felt that the best thing to do would be to just open it. Therefore, "All that we have said, we will just silence the whole of Trinidad and Tobago. They will talk no more." The airport was opened.

That was unfortunate because it did not do that. This is light humour, but I remember when the hon. Prime Minister said it was going to be opened on a certain day and then when he recognized it could not be opened, he said "If I go up there and I find one piece of galvanize hanging, it will not be opened." We all laughed because he knew that he was only saying that because he knew very well that it could not have been opened.

The hon. Minister took up the challenge and she opened it. What has happened with the whole thing now that it has been opened is that all the flaws are coming forward. What I was talking about with the highway is the same problem we have with the airport. A lot of criticism has come from the past administration for not getting this airport done, and here the miracle was being done and an airport was coming together, but what has happened to that airport, as far as I can see, and from the documents I have before me, is that it was put together similarly to the Solomon Hochoy Highway. Parts were done and then people looked at them and said they were not good enough. Those were broken down and additional things were done. Even now, we must be still breaking down and building up parts.

If they think I am making a joke, they paid Birk Hillman who did, for example, the design for the hold room, US \$100,000 for that design. At the end of the day, when it was constructed, it was 250 square metres and only 112 seats. Now, this is Trinidad and Tobago, the millennium airport, gateway to the

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Americas. We could have all seen that 112 seats would have been inadequate. Anybody building a new terminal building would have seen—well anybody with sense would have seen that was inadequate, but we built that holdroom.

What happened after—let me show what I am saying—we had to change that, and it took three construction phases to change it from 112 to 305 seats. Therefore, when my colleague talked about cost, we have to look at cost in terms of that. Three construction phases to move from 112 seats to 305 seats. It is similar to the Solomon Hochoy Highway; similar to Cross Crossing. In the first phase we were only able to get 34 seats; a whole phase. That cost us US \$113,000, only to get 34 seats. That still was not sufficient.

I could tell you, out of that amount we had to relocate a lamppost we had to move the ceiling, and that sort of thing. New seating and, of course, the consultant's fees. We got 34 seats. We went to a second stage to increase that hold room, and I think they did something to the apron area, and in that second phase we got 122 seats. You know what is interesting? I have all the figures for every part of that second phase here: the baggage belt, repairs to the apron, new seating, and I saw that relocating a light pole cost US \$25,000. A new revolving door—we love to talk about it—cost \$25,000. Of course, the consultant's fee was \$190,000. Just to get those additional 122 seats, it cost us US \$1,355,000. That was the second phase.

The seats still were not enough. They had a third phase of breaking down, and this one was to increase the level of service of the domestic passenger to equal the international passenger. That third phase brought us up to 305 seats on an area of 675 square metres. I am telling you, that third phase cost us US \$845,000. In all, to get that additional 293 seats, we paid US \$2,313,000. I am just trying to show you how when you do not conceptualize something—you had a design, you brought these people down, probably they do not even recognize our culture and our people—to move 293 seats, three phases, that is the kind of money you are spending. That is why I am telling the hon. Minister that she has got to be careful, because that is the way things were done; nothing properly programmed, but every time one looked at it, a wall came down.

No wonder when we talked about rising costs, there was a reason why things were done in such a manner. Still out there, I do not know how far we have reached, but the police station which should be part of any plan, and the area for immigration, we have noted all those places and we still need to work on those.

As we go along, there are additional requirements. The department of agriculture sent in a budget for something: additional furniture, plant quarantine, bureau of standards; all of these sent in for additional budget. When we were actually planning and people were talking and making the plan, people did not see what they were supposed to do at the very beginning, and that is why things changed drastically over time. Every time they have to break down and build up and break down, the cost simply escalates. This is serious business. We have to look at who we are paying. The consultants are getting a whole lot of money and I think some of them owe us a lot of the money. The consultancy fees are quite high.

The airport was opened in May, and in April there were requests for additional large sums of money, and I am still finding that so much needs to be done. We talked about the fire station, and I do not think that Sen. Morean had her figures right, because the estimated cost is something like \$20 million for that fire station. Still, there is so much more to be done.

I want to tell them something. When they talk about value for money, I am saying we did not get value for money. That is the bottom line. We did not get value for money, and anybody who is honest to himself will say that too. Where do we go from here and what do we do? So much is left, because they are going to be getting all this criticism coming round and round, and instead of banding our heads, we have got to find it.

When I look at the new terminal building alone—

Sen. Dr. Phillips: But you did not see it!

Sen. J. Yuille-Williams: When I look at the cost of that new terminal building [*Laughter*] over \$896 million and the famous Birk Hillman fees, over \$132 million. What are we going to do with Birk Hillman when one considers the amount of criticism people are leveling on us? Think about it; \$132 million. You really have to study it.

6.45 p.m.

If you think that it is the end of it, so far—I am going to go through some of the figures—[*Interruption*] I do not know why people get anxious and nervous. So far the anticipated figure for the airport that we are talking about, without interest, is—I think Senator that you need to listen, because you had your figures wrong—\$1,636,848,938. That is the anticipated cost and that does not include interest. So if you give the interest at about \$300 million—and I am certain that it

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is going to be more—we are at \$2 billion plus. Therefore, when you hear us talk about \$2 billion for the airport, we know what we are saying, and we have the figures to prove it.

The figures I am using are not my figures, they are yours. I am not using my own figures, these figures are your figures. I could go through these figures for all the areas: for your terminal building, your consultancy fees, for NIPDEC, the supporting developments; that is what you said it would cost.

What I am saying, therefore, is that we have spent all that money on an airport and what we have out there is not satisfactory. What do we do at this stage? This is continuing, because there are a number of things still to be done. I heard today someone in here said that they have given us an airport now, we have got the terminal building; we need to get the rest. As a parliamentarian probably you were not out there with it, therefore, you might be saying, “As an individual I was not responsible.” But you also have to consider, from now on, how you are going to address rising costs of projects you are going to undertake even after this one. This is just one project that has been mismanaged and money has been spent in such a way. I heard people talking about it; I have not seen it. What I have been given I have been told about, but these figures are yours.

The Finance Minister still has a whole lot of money to pay out there and he has to balance that against the cost of the public servants, different groups and ministries saying that they need some money and we are just going on.

Mr. President: Senator, I believe you have drifted away from the Bill for some time now. I do not like to intervene, but I think you have gone way beyond the normal permissible limits.

Sen. J. Yuille-Williams: Thank you, Mr. President, for your kind consideration and time. But I just needed to put this into context. [*Interruption*] As we looked at the Bill against a certain background, this is certainly going to cost some more money too. Therefore, we are looking at where we are moving from one authority to another and this is continuing cost. That is one of the things I wanted to say.

I also want to tell the hon. Minister, as she puts this bit of legislation here, that it has a cost which we have to look at. Let me just refer to the two areas that I thought I needed to look at in terms of the public service, the safety record and the board. When we talk about the way in which the board is appointed, I also want to agree with my colleague. I do not want to get off, but we have to be careful about how we establish these boards.

We have been having some difficulties with the functioning of certain boards for certain authorities. I want to also agree that if we have the President appointing, we want it to include—I do not see why anyone should run away from looking at the advice of the Leader of the Opposition with the Prime Minister as we select people for the various boards.

Mr. President, as we said before, we got the legislation and we probably might not all be legal persons. Therefore, during the committee stage I want to make the comments that I have noted here for clause 10. I do not know how we are going to work out the whole section on the public servants in clause 27. I think we need to look at that very closely, because if we pass the legislation without having done that, we are going to find ourselves in the same problems, as I said before, with the regional health authorities. So I look forward to the committee stage of the Bill to make my contribution on clause 10.

Thank you.

Sen. Derek Outridge: Mr. President, I want to continue where Sen. Prof. Ramchand left off in respect of clause 7(a) and (b).

I totally agree with Sen. Prof. Ramchand. I see no reason why a civil aviation authority should be entering into acquiring shares in companies and also entering into partnerships or arrangements for the sharing of profits. We only have to remember the recent ADDA controversy and Ringbang. We should also remember that when you enter into arrangements like these, you not only stand the possible opportunity of making profits, but you also stand a great possibility of making a loss, and loss is nowhere mentioned in these subclauses. We must always have that in the back of our minds when we are dealing with public funds, especially if you are a public authority. That is something that I would give serious consideration to if I were the Minister, in terms of having these removed from this particular Bill.

I want to acknowledge, which so many of the previous contributors have done, that an airport is not just a physical structure. I have to say that it appalls me to even consider the fact that the health, safety and environment of the actual airport were not taken into account by the consultants who were given the responsibility to design and construct this airport for the people of Trinidad and Tobago.

I am quite surprised and I think the Minister can even explain this, that Birk Hillman also had a fee of 3½ per cent for commissioning which was added on to their total consultancy fee and that advice on the commissioning, in respect of

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health, safety and the environment, should have been put forward by Birk Hillman from way back in 1993 when they first got their consultancy and we are here in 2001 now dealing with this. I am appalled to know that we can reach this level in a millennium period.

I also want to address the fact that under clause 24 we have the exemption of the Central Tenders Board. I have great concern when we can create a special body corporate and remove the Central Tenders Board from having some form of overview or responsibility in terms of procurement. I will bring this out from previous experience. We have had special bodies corporate of NIPDEC and we know what has happened there. The construction industry over the years has been letting us know what the problems are with that.

We have had MTS; we now know what is happening in terms of the review of the primary and secondary education schools. We have the North West Regional Health Authority, and we know the problems that we are experiencing there when they are given certain responsibilities without checks and balances. We have the Tourism Industrial Development Company which has gone beyond its mandate, because it has this open aspect put into its legislation that allows it to raise funds to pave roads. We are going to spend many years paying back that loan out of the funds allocated to TIDCO, instead of TIDCO carrying out its primary objective of marketing Trinidad and Tobago as a tourism destination. [*Desk thumping*] What we are creating here is another authority that can, just like the Airports Authority did, hire people like Birk Hillman and start an airport for \$600 million and up to now we do not know where it is going to end. I have a great concern where public funds are expended on blank cheques.

We must ensure that we put the necessary checks and balances in. I would advise the Minister that if she wishes to keep the Central Tenders Board out, then her checks and balances should be that both the Central Tenders Board and the Auditor General's office be part and parcel of the drafting of the rules and regulations which are to be designed and implemented. If that is put into place then the Minister might be well advised to keep this with amendments.

Mr. President, we also have to note that when we allow things like this to go without the necessary checks and balances, we are opening up the floodgates of corruption. We note and I have read in the newspaper over the last week, that Jamaica has an anticorruption unit. If the Government is very serious about not having corruption, being able to manage, control and being able to ensure that boards, commissions and so forth, follow their mandates that are given by

Parliament, then we should have an anticorruption unit to which they are answerable.

This brings me to the point of Sen. Daly's contribution, that the members of these boards should not be allowed to have obligations less than we would have in this Senate, in respect of integrity legislation and they must be made to meet those same standards.

Mr. President, I also want to address, and I would like the Minister to explain, the difference between clauses 7(d) and 27. Clause 7(d) relates to clause 6, in that the Authority has the power to do all things necessary. Clause 27, which is on page 16, deals with employment of specific tasks. Both of them cover contracts for services. I would like the Minister to explain why we need to have both of them existing within this Bill.

7.00 p.m.

I also take cognizance of the fact that whatever we do we must also consider the environment and I compliment Sen. Prof. Ramchand for bringing home to us that we should ensure that the Environmental Management Authority in some way, form or manner, is the agency that would approve the aspects of environment. I would even go further to advise that the amendment tabled by Sen. Prof. Ramchand to clause 8 should not just relate to aircraft, but it really should be "aerodrome" because under the definition of "aerodrome" we will cover aircraft.

Not having the Planning and Development of Land Bill as yet proclaimed, but the fact is that legislation already exists in respect of the Town and Country Planning Ordinance which deals with land use. Clause 33(5) deals with granting licenses and so forth.

I would want to ensure that somehow or other when we consider granting licenses for aerodromes that we ensure that these people, even if they are private, follow the National Physical Development Plan in terms of how we use our land and that we do not end up taking prime agricultural land to put airports, or aerodromes or heliports but that we would take land that has been allocated for that sort of facility and to use that in respect of those activities; or that any new plans that may come forward which are approved by Parliament, that only in those circumstances can the usage of land be made for those facilities. It is very important that we do not go putting heliports and airports all over the country just because some private entrepreneur wants to make some money.

Mr. President, I thank you for allowing me to make this brief contribution and I thank the Minister for bringing this Bill before the Senate. I have heard so many of my colleagues say that she is a listening Minister and for that I compliment her.

Mr. President: I wish to congratulate the Member on his maiden contribution especially on his maiden appearance. [*Applause*]

The Minister in the Ministry of the Attorney General and Legal Affairs (Sen. The Hon. Gillian Lucky): Mr. President, this evening, because it is now evening time, I do not intend to make a long contribution. In fact, I have to rise this evening to, at least, respond to a question that was placed specifically to me by Sen. Prof. Kenny, when in his contribution he seemed very puzzled that the First Schedule of the Bill contains a clause that actually relates to clause 11(1) that deals with the appointment of the Board.

I hope that I have gotten the hon. Senator correctly, when he indicated that he was concerned that there seems to be in legislation, some different styles that are developing, and he was quite concerned that the schedule which deals with the appointment of the Board was not placed in the clause of the Bill that deals with it substantively, most specifically that being clause 11.

He was querying the reason and went so far as to explain to us that someone, unreliably, informed him, perhaps not going into full explanation—I am not quoting verbatim the explanation given—but the explanation given is that when something is put in a schedule, it makes it easier if there has to be an amendment, therefore it would be more difficult if it were placed in the substantive part of the Act because that would call for it being brought back to the Parliament.

When questions are posed specifically to me, I feel it is my duty to answer, not only because I have been trained, quite commendably, at home, but one must always respect one's elders. In this case I do not refer to Sen. Prof. Kenny's age but rather his experience because I believe all of us here are young at heart. After all, we have a full night ahead and the night is young.

So what I wish to indicate to the hon. Senator is that having done my investigations, what I have been told is that clause 11, the substantive part of the Bill does, in fact, deal with the board in terms of its establishment and composition. It is really a matter of style in this instance when it is put in the schedule. To put the hon. Senator's mind at rest, there is no way in this instance that the composition of the Board can be changed easily; it would have to come back to Parliament because clause 11 is silent on the means of amendment. In other words, in some instances when things are put in a schedule, it can be for

ease of change and that would be in situations for example, when the Minister is delegated with the power to amend the schedule. This is not the case in this particular instance, that is why I say the explanation given to the hon. Senator is not wrong, but perhaps it has not been explained to its fullest.

Having taken the opportunity to explain—and I hope that I have done so well—it would be remiss of me if I just sat down and did not address some other issues that have been raised and which called for some clarification.

While others were eating during the tea break I took the opportunity to have some matters resolved in my own mind because I thought the points raised were valid. Unfortunately, I have now been told that we would be going straight through and would not be going to dinner and I am now regretting that decision not to at least avail myself of something to eat. Before I collapse due to fatigue, I just wish to deal with a very significant point that was raised by Sen. Martin Daly.

In the Senator's contribution, he made the point that he was very concerned, and rightly so, that in seeking to deal with the legislation, in terms of new legislation before the Parliament, in seeking to deal with the Bill and have what would be a consolidation of all that existed in order to remove any duplication—the hon. Senator still seemed concerned that there was duplication—reference was made to clause 10 of the Bill and its relation to section 12 of the Airports Authority Act.

If you would permit me, the point put succinctly seems to suggest that whenever this Bill is proclaimed—and the Senator made the point that he did not want any promises that we would subsequently go to the Airports Authority Act to make the necessary amendments. The point being made is that as it stands, once this Bill is passed and becomes law, there would be conflict between this clause 10 which gives certain rights of authority to the Authority being established under the Bill and the present function of the Airports Authority of Trinidad and Tobago.

If you would permit me, Mr. President, and I would not read it, it is before us, clause 10 of the Bill gives the Authority exclusive rights to provide the following air navigation services within Trinidad and Tobago, and listed from (a) to (f) is a degree of specificity going into what those air navigation services are.

7.10 p.m.

Section 12 of the Airports Authority Act—in fact, it was amended by virtue of Act 28 of 1993. I am just going to quote what section 12(1) of the Airports

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Authority of Trinidad and Tobago (Amdt.) Act says. It says this, coming under the marginal notes:

“The main function of the Authority is to develop and manage the business of the airports, including the development, maintenance or improvement of their facilities in a cost effective manner, so as to ensure the availability of efficient, secure and safe aviation services to the public at all times as well as to ensure commercial viability.”

So the position is that based on section 12(1) as I have just read, the Airports Authority, as it stands, deals with the management of the airport. What is envisaged in clause 10 of the Bill is not airport management, but rather something completely different, and that is air traffic control. In fact, I am reliably informed that the air traffic control functions which would encompass what is listed in (a) to (f) of clause 10, are presently functions that are dealt with by the air traffic control division, and when the Act is promulgated, that is when the clause that is before us becomes the law, then it is the Authority that will continue with the role being played by the civil aviation division, therefore there is no conflict.

If I might put it very simply, without causing any, if I might say, inaccuracy, the Airports Authority would be dealing with the management of the airports, whereas the Authority being created under the Civil Aviation Bill, will be dealing with air traffic control matters, and those two are distinct. Therefore, even before there is any proclamation, there is no conflict; there is no duplication and when the Bill becomes an Act and it is proclaimed, then we would see again that there is still no duplication of function.

The reason I thought it very important to indicate this is, as Sen. Daly's concern was that with this new Bill before us there were certain deficiencies that ought to have been addressed. Certainly this was one of them that was at the forefront of all our minds as Senators, to ensure that with the new Bill there would have been resolution of what was potential conflict or duplication. Sen. Daly also mentioned what appears to be an apparent discrepancy or conflict which is contained in clause 14. This would be, what appears to be, an apparent discrepancy with clause 14(1) and (2).

I have taken the opportunity to look at it and it is my respectful view that there is no conflict. I do not know if by the time we have reached to committee stage my view would be changed, because I am constantly churning it in my mind. Because when Sen. Daly and the other goodly Senators are making their contribution, when points are made, in my mind and in the minds of my

colleagues, they are not dismissed; they are churned. I think I would always resort to that phrase. We have to get it right and it is sometimes in fine tuning that we find ourselves listening to the contributions, churning them in our minds and seeing whether, in fact, there is disagreement or agreement, and where there is agreement, to be big and brave and bold enough to say, “Yes, it is wrong, as stated, and we need to correct it.”

I have looked to clause 14(1) and it is my view that clause 14(1)(a) deals with a pecuniary interest in any business entity regulated by the Authority. Subclause (b) is dealing with the declaration of a member in situations where he has a pecuniary interest in any business or body corporate carrying on any business with the Authority. In subclause (c), the member would have to indicate in that declaration that he will not engage in any business with any person carrying on business or competing in business with the Authority. But, to me, what subclause (2) is doing is something different. What it is saying is that a member who has a pecuniary interest in a matter being considered before the board will have to, as soon as possible after that revelation is made—and he has the relevant facts—disclose the nature of that interest. Whereas in subclause (1), what that envisages is as the board member is appointed, he must make the disclosure. He must, by way of declaration in the prescribed form, indicate whether he has any particular interest but in stated circumstances. To me, what subclause (2) is doing is, in fact, putting an even greater burden upon him, because it is no longer a case where he signed a declaration form as in subclause (1), and then has to annually ensure that he submits a further declaration. What subclause (2) is saying is, provided any matter comes before this board and he has an interest in it—any matter; not necessarily any business relation with a business he has or a business entity, but any matter in which he has a pecuniary interest, he is now under a duty to ensure that he discloses the nature of that interest. I do not know if using the words, “notwithstanding subsection (1)” to introduce what is contained in subclause (2), might give some clarity, but it is my view that at this stage I still see the distinction.

I was not going to deal with what will be my final point, because I felt the rules of interpretation would have made it very clear, that what seems to be quite a ridiculous interpretation, would never have been something that we would have to consider, or the courts would have to consider. But the fact that it has been raised and in the suggested amendments, or the amendments that have been

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circulated, it, in fact, has been suggested that this particular clause be deleted, I think it important to share what would be my view as to what clause 59 really seeks to do and why it is important to have such a clause in our Bill.

The contribution made by Sen. Danny Montano, one of the points raised was the interpretation of clause 59. I think the reason that the hon. Senator did, in fact, make the point that it seemed that this entire clause would have led to a situation where even logos on planes, including BWIA, would be in contravention of the clause—and I would blame it on what was before him—was the word, “aerial”. I remember Sen. Dr. McKenzie also making this point. She was concerned that that word suggested it was either out of place or other words were missing. I think that is why, perhaps, Sen. Montano gave it, what I would term to be, an interpretation that was never in the minds of the drafters to lead to such a ridiculous interpretation, that is the word, “aerial” should really be forming a part of the marginal notes. So that it should be “Prohibition of aerial Advertising”.

When one looks at the definition of the word “advertisement” being public notice, defined to sell goods or publicize an event, and the fact that when you look at—there are various rules of interpretation it is not for me to give a lecture on it; there are others who are perhaps within these walls who have tutored me on the point. But there are various rules: the literal rule; the golden rule; the contextual rule; the mischief rule, and the list goes on. They all have their priorities. But when this clause was interpreted, what it was meant to do was to put a prohibition on aerial advertising, which, in fact, could lead to persons using those banners—and I am sure we are familiar with them—or smoke being emitted from the aircraft in which there would be messages, and that, of course, could either block signals or block the radar or lead to problems in the sky. I will use that general terminology.

That is why the clause is introduced in the way that it is. Clause 59(1)—and I am just quoting the way it is introduced:

“Except in such circumstances as may be prescribed...”

In other words, it does not remove the ability for persons to advertise in this manner. But certainly if one is going to use banners or smoke, or whatever other creative means persons use to advertise using the aircraft, emitting or displaying the advertisements, then, of course, one would need to get permission. I think that is something that applies on the land and it should also be something that applies in the air, and it is certainly something that applies on the sea, because when we are in the sky or on the land or in the sea, we have to remember we are not just

responsible for ourselves and our passengers, but for those on the roads. I would just, at this juncture, indicate with the number of road accidents I am seeing, one has to understand why it is important to remember when we drive our vehicles, we do not just drive for ourselves but we drive for others.

Mr. President, I am glad that I have kept within my timeframe. I thought these were some points that were raised. I do not mean to address what may be considered trivial points, although in this honourable Senate I do not think points are trivial, but I know that the hon. Minister would be dealing in a very comprehensive way with all the other points that have been raised by the hon. Senators. I just wish to indicate that my reason for the contribution is, again, to indicate to Sen. Prof. Kenny—the question was asked of me, through you, Mr. President and I answered—that on this side we do listen to what has been said; we do listen to the contributions and the presentations and the Bill before us is tangible evidence, proof beyond reasonable doubt, that we are willing to listen and where there is consensus we are willing to act because we want to get it right.

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

7.20 p.m.

The Minister of Transport (Sen. The Hon. Jearlean John): Mr. President, I must say thanks a lot. It was a very enjoyable day. Generally, I do not like to sit still for too long. Thanks for an informative day. I wish to express my profound gratitude for the worthy contributions of the hon. Senators on all the Benches, the staff of the Attorney General's Office, members of the Civil Aviation Authority and the Ministry of Transport, for their valiant attempt at getting this piece of legislation right. We have to apply it and comply with our international obligations.

In an attempt to respond to some of the issues raised—they were far-ranging and basically, although this was in effect the Air Navigation Bill—I needed from time to time to go back to see the definition of this Bill. It dealt less with safety and security of the airport and more with the new terminal building. I will resist the temptation now to answer most of those questions. I am sure that they would be raised again when we come back to the House with the amendments to the Airports Authority Bill of Trinidad and Tobago.

Sen. Montano wanted to get the reasons for expanding the composition of the board from six to eight members. Basically, this was to make provision for a representative of the Tobago House of Assembly—they are just as important in terms of helping us with the evolution of our civil aviation industry—and the

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Environmental Management Authority (EMA). You will recall that Sen. Thomas made the point in his contribution to the Air Navigation Bill, that studies in larger countries continue to indicate that toxins and noise from aviation are increasingly injurious and damaging to the health of the population and to the general environment. That was also covered in the Civil Aviation Bill, 2000. It would have been remiss of us if we did not include someone from the EMA. Sen. The Hon. Lucky just dealt with clause 14(4) and (5). Clause 14(1) dealt adequately with the disclosure issue. I believe that clause 16(4) was inadvertently left out. I hope that at the committee stage it would be added to the Bill.

In clause 32, Sen. Montano spoke about aircraft and airmen certificates. He has tabled an amendment to that effect. I think we would further amend that amendment because they call them aviation documents.

In clause 40(1) and (2), he spoke about detain. He expressed concern about using that term “detain”. I was advised that it is an international legal term, although “international globalization” is a dirty term today. It is used to describe any restriction on the aircraft. We can substitute that for restraint or maybe to prevent from flying.

In clause 48(1) there was another concern about payment to the Authority. Trinidad and Tobago air traffic controllers manage a flight information region of 750,000 square miles of air space. Anyone traversing that air space must pay us. A few nights ago, on invitation, I was privileged to sit in a cockpit and I realized what our men are doing down there. When I heard them say that a Boeing is 2,000 ft above, you should go down 2,000 ft., it told me that they are critical and crucial. I am looking at their interim payment very, very seriously. They must pay us for that information and guidance through our air space.

Sen. Montano: Is this what normally prevails everywhere else? If it does, how do you enforce it? If an airline is passing through the air space that you are controlling, but never lands here, is there a convention or protocol by which these levies and charges are made? Or, is this something peculiar to Trinidad and Tobago?

Sen. The Hon. J. John: It is not. Forgive me if I am clumsy in explaining it. There is an agency. It came about with an agreement of Caricom that treats with the management of air space, not only in Trinidad and Tobago, but also all the Caricom countries. As long as you are passing over our 750,000 square miles, they will know because they would direct you across that FIR as it were. You

would then be debited with a charge for passing through our air space. I am sure that there is an international convention to guide that.

Sen. The Hon. Lucky dealt with clause 49(2). In matters of aviation safety, you must have the right when dealing with public safety. The clause has been amended to include that the Civil Aviation Authority can only enter premises after obtaining a legal warrant before a magistrate. That should give it a fairly soft landing.

Clause 59 deals with the prohibition of advertising. We dealt with that earlier. In the interest of public safety, when you tow banners from an aircraft, it is a safety hazard. This exercise must be controlled. The point was made in clause 59(1), where it mentioned that except in such circumstances as may be prescribed, no aircraft in the air and it goes on. Within the context of the regulations, the director general can manage this exercise of aircraft carrying advertisements.

Sen. Dr. McKenzie spoke about education and making people aware. I remember when BWIA was going through its paces, the manager of hazardous material wrote me a very long letter which led to the same point of Sen. Dr. McKenzie. They said that our people do not know what they can and cannot take on a plane. We are looking at that to ensure we have visible signage. That would probably mean part of putting on a human face at the airport. We will engage in a process of public education.

There is a universal confusion with the safety oversight audit and what it means to the airport. I heard it raised by Sen. Outridge about Birk Hillman's role in this, if he could not have told us about health and safety. I became confused. There are experts as I heard it. I worked with them for about three months and I can vouch for that. They would have built an airport to international specifications, taking into consideration all these safety issues.

Prior to the opening of the airport, the Ministry of Transport and the Airports Authority invited the International Civil Aviation Organization (ICAO) to look at the new terminal building and advise us on these safety and security issues. Airports are not downgraded. The civil aviation system can be downgraded, but not the airport. We have a fixation with the airport. It is not downgraded by ICAO, the Federal Aviation Authority or the International Air Transport Association. They will come in and advise. If an American carrier is coming in your airport, or you have a carrier flying to their destination, they want to ensure that you are not carrying guns, bombs and drugs.

7.30 p.m.

That is all. They want to see how secure your airport is. Their regional manager visited Trinidad on March 19—20, 2001, and let me quote from his executive summary. He said:

Passenger traffic at Port of Spain—

They call Piarco International Airport Port of Spain—

—has grown at a high rate during recent years. The development of a new passenger terminal is, therefore, timely given that the existing passenger terminal is at a capacity and providing users with a poor level of service. The new passenger terminal complex is an impressive facility in terms of the design, capacity and facilities it will provide for its users.

This is ICAO. They are independent. We did not pay them for this.

The new terminal would be one of the best in the Caribbean once it opens. This was ICAO in March talking about what they had seen at the new passenger terminal. So, in terms of that whole confusion about the downgrade and why we are signatories to this international convention—and let me just try to clear up the confusion because it appears as if it is fueling a lot of misinformation. Under the Convention on International Civil Aviation, which is the Chicago Convention to which Trinidad and Tobago is a party, each member must meet certain internationally agreed safety oversight standards known as the International Civil Aviation Organization Standards. The FAA comes into this to ensure—they are bound by the US regulation—that civil aviation authorities, that is, wherever they are and have carriers that serve the United States, comply with the ICAO standards. Under its international Aviation Safety Assessment Programme, these countries determine and meet ICAO standards, a category 1 programme and if you do not meet it they then give you a category 2 rating. That is, in essence, the connectivity and the overlap. Under the IAF programme, the FAA assesses all foreign civil aviation authorities, and not airports! They do not downgrade airports. I pause to ensure people understand that—In states whose carriers serve or apply to serve the United States the purpose of their assessment is to ensure that the foreign civil aviation authority—not foreign airport—is in compliance with the minimum safety oversight standards established by the International Civil Aviation Organization. It is also important to understand that the IAF assessments are directed only at foreign civil aviation authority, not foreign air carriers. Of course, there would be an impact on BWIA but it is not directed at

them, it is directed at one's ability to conduct civil aviation oversights. I hope that would clarify some of the confusion and that some of us do not get carried away on hot air, just the Air Navigation Bill as it were.

So far the only areas subjected to these audits are personal licensing, aircraft operations and airworthiness. Those are basically the three areas they look into. There was another serious point raised, and it depends on where one gets his information. One has to be careful, because when one "talks the talk" as it were, one brings persons into disrepute and it is really unfair.

In Sen. Morean's contribution on the AIP publication—I am not sure I am getting the acronym right in terms of the explanation but I think it is the Aeronautical Information Publication. It tells you what is where at an airport and that has been sent out. I managed that myself in March. It takes a few months to be published, and that is normal. In the interim, they have something called a notam that goes out. American Airlines was one of the first airlines that said it was going to move. Air Canada is not a two by four airline. It is a major international airline and if it is that one's airport is not safe—America would not risk its people—we hear them all the time talking about American life and American this and that, as if it is more important than anything else in this world. They would not fly their people in here. They would not fly their aircraft in here. When we get these little rigs, one has to sift them and understand where we are coming from. In my absence, for instance, some reporter went "bright eyed and bushy tailed", and published some bit of foolish rig on the airport being downgraded. They are so busy that they did not seek to call Captain Brunton or the Director General of Civil Aviation.

Sen. Prof. Ramchand: Who is he?

Sen. The Hon. J. John: Mr. Ramesh Lutchmedial and we have Mr. Ashby who is the Director of Civil Aviation because there is now a transition. They did not see it fit to call them and they published it. So now I am called upon on my return to give my side of the story. I did not give a story. People run and say these things—

Mr. President: The Senator would like to get a clarification.

Sen. Prof. Ramchand: I wonder if the Minister would tell us why she travelled?

Sen. The Hon. J. John: We are here to deal with the Civil Aviation Bill. Notams go out immediately to all originating airports and airlines. It is published,

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it is there. They would not come in here unless they are safe and secure. When BWIA, for instance, had their problems I immediately issued a statement largely because I know that what fuels air travel is confidence. One must be confident that when you are up there somebody is watching besides God. You would want to know a man is up and awake and he is looking, so you cannot tell me anybody of sound mind and body would believe that you have nothing to guide an aeroplane in. That could never be. It would just be preposterous. There are notams, they go out from all the originating airports and airlines and that is the only reason American Airlines flies into Trinidad and Tobago. It is the only reason Air Canada flies into Trinidad and Tobago. Not only that, it is the only reason BWIA flies into Trinidad and Tobago because we have the best. I could have said it without fear of contradiction in Washington. We have the best pilots in the world. [*Desk thumping*] When these things are said it casts aspersions on our public servants.

Mr. President: The Senator would like another clarification.

Sen. Prof. Ramchand: The Minister just said something, which implies that she was discussing aviation in Washington because she was telling them we have the best pilots in the world.

Sen. The Hon. J. John: It is because I benefited from being in the cockpit. That was not in Washington. That was going to New York. The journey was terminated in New York.

7.40 p.m.

Sen. Morean: I would like the Minister to answer whether the Civil Aviation Authority has published an aerodrome information publication for the present terminal.

Sen. The Hon. J. John: Mr. President, maybe that is the same Aerodrome Information Publication we are talking about. Yes, it was sent out. I am saying that it takes a while to be published. [*Interruption*] You did not make the point in isolation. We are saying that it was done and that it was done in good time. The effect of the AIP is to tell pilots where they are going. I think that is the point you are trying to make. We had nothing guiding pilots. That was not the inference. It was a specific statement that we have nothing guiding pilots coming into the country. [*Interruption*] It was done. The Civil Aviation Authority sent it out. There is a process. Trinidad and Tobago is the only country that believes God is a Trinidadian and because of that, this is heaven and everything is perfect.

I do not know who has been through Kennedy Airport recently. I was in Dulles in Washington and it is an ongoing process. Airports are not static. We have this idea that we build an airport, we put it in mothballs, we cover it down and we leave it there. That is not the case. An airport is not static. I do not understand this fixation with what is happening and what is not happening. We see people all the time in every airport, busy painting and doing maintenance. It is ongoing. Go into Kennedy Airport now and you would not even know where to go. There is so much dust and plastic sheets, and that is Kennedy. It is an ongoing process and I do not think this airport is any different that we will take it, put it in mothballs, put it away and say, "On to the next project."

Again, the taxiway signage exists. All the adequate notices for operation of the facility to meet international standards are there. I do not know whether you have looked at a runway, whether it is in New York, Washington, Singapore, Gatwick or even in Trinidad and Tobago. If there is no signage, you do not know to which gate to go. It is not a "vaps" thing; we are talking about safety and security. You have to be precise. So when you say you are going to gate 11, that notam must tell you where gate 11 is. Hence the reason, in our own operating design, the air traffic controller takes the plane down on to the active runway and it comes to the same old runway. It is the same runway we continue to use. When it gets on to that ramp area—I think they call it an apron—it is taken over by the ramp control officers who guide the plane in. The airline marshals will take over from them and bring the plane to park.

It is not "vaps". It is a very precise skill because we are talking about safety and security. You must have signage. When you tell an American you are going to gate 6, they must know where gate 6 is and it is not someone in a wild "vapshish" manner gesticulating wildly telling them that. It is not that. It does not work so. There is a professional way and we are professionals. There is a notam, which will tell the pilot where gate 6 is. That is the same as the AIP. It tells the pilot where gate 12 is. Where gate 6 is on the southern side of the terminal; gate 12 will be on the northern side of the terminal building.

They cannot come down with a flashlight when American Airlines touches down at 8 o'clock, looking for a gate. It has to come to the standard of the ridiculous because that is how it sounded to me. It is so ridiculous that we have no signs there. It means that anybody can come and park anywhere. It is a plane that we are talking about and if one plane wing goes into the terminal building, that is millions of dollars and it is laid up for about a month.

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The responsible body for safety and oversight of the aviation industry within the Ministry of Transport is now in transition. We have Mr. Errol Ashby, who is the Director of Civil Aviation and Mr. Lutchmedial, the Director General, who is the new person to steer this Authority. They have approved the operation of the new terminal and its facilities. It has been confirmed by American Airlines. I was there when we had the switchover at 12.01 on the morning of the 26th and it was basically seamless. I reiterate: American Airlines would not have brought their plane into that new terminal building on that ramp unless it was safe and secure with the markings.

I do not know if there is anything else. Basically, I think I have dealt with the substantial clauses. I thank you so much for the privilege.

I congratulate Sen. Derek Outridge. I thank all the Senators for their contributions. I know that this is a memorable piece of legislation and it will go a long way to plug that deficiency within our whole civil aviation industry.

I beg to move.

7.50 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Mr. Chairman: Hon. Senators I think we are ready to proceed. This is a Bill that contains 72 clauses and is divided into 13 parts with four schedules. We have two sets of proposed amendments from the Minister. We have the proposed amendments from the Attorney General, Sen. Montano, Sen. King and Sen. Prof. Ramchand. Are there any other Senators who have submitted proposed amendments who did not hear his or her name?

Sen. Morean: Mr. Chairman, I do not have the amendments in writing. There are some amendments that I would like to propose. Could I put them in writing now—but they would be in manuscript—and pass them to you?

Mr. Chairman: Is it a large number of amendments?

Sen. Morean: I will try to keep it to just the few major ones.

Mr. Chairman: No, you see, it puts Senators at a disadvantage when you do not have them circulated because discussions really take place when they see the proposed amendments before them.

Sen. Morean: I appreciate that.

Mr. Chairman: How early in the Bill do your amendments start?

Sen. Morean: In fact, some are very early, from clause 2 through 5.

Mr. Chairman: No, well I think—

Sen. Morean: Mr. Chairman, I appreciate the disadvantage but, I was also at a disadvantage because of the rush. The fact that we got this in such a short time and having to go through it—there has to be a little give and take on both sides.

Mr. Chairman: No, that is really not acceptable.

Sen. Morean: There has to be some give and take on both sides, and we do not all have the same facilities.

Mr. Chairman: Do you have them in manuscript?

Sen. Morean: I am doing them now. [*Interruption*] It is your call, Mr. Chairman.

Mr. Chairman: I would not want to prevent what could be very valid proposed amendments to go by the wayside for lack of a simple procedure. I want to make sure that the opportunity is given to Senators to have sight of the proposed amendments so that they could contribute when you make your proposals.

Sen. Morean: I have a suggestion, Mr. Chairman, rather than let me hold up the committee probably I could be given leave to write them now and to have them copied. Even if we have to go back to some parts, we can deal with them and I could write them as we go along.

Mr. Chairman: How many do you have?

Sen. Morean: I will keep them down to about eight.

Sen. Prof. Ramchand: Mr. Chairman, how about a five-minute break?

Mr. Chairman: Well this is what we have to consider, unless Senators want to go for dinner while Sen. Morean prepares the proposed amendments.

Sen. Morean: That is a better idea. [*Interruption*]

Mr. Chairman: We will suspend for 10 minutes, if it is not completed it will not be entertained.

Senate resumed.

8.01 p.m.: *Sitting suspended.*

8.14 p.m.: *Sitting resumed.*

Committee resumed.

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed, That clause 2 stand part of the Bill.

Sen. Prof. Ramchand: Mr. Chairman, I think there might be a little typo in subclause (2), "A reference to any aircraft registered in Trinidad and Tobago...". I think "shall include" should follow. [*Crosstalk*] On page 5, subclause (2).

Mr. Chairman: A word is missing? Second line is it?

Sen. Prof. Ramchand: Yes.

Mr. Chairman: What should it be?

Sen. Lucky: "Shall include".

Mr. Chairman: Treat it as typographical.

Sen. Morean: I think if we are doing that there are also some other typos. On page 3 in the definition of "Board", after "Aviation Authority", leave out the word "Act".

Mr. Chairman: Page 3:

"'Board' means the Board of the Trinidad and Tobago Civil Aviation Authority Act..."

Is it that?

Sen. Morean: Yes.

Mr. Chairman: What word is omitted?

Sen. Morean: The word "Act" should be omitted.

Mr. Chairman: Under the definition of "Board"?

Sen. Morean: Yes, Mr. Chairman.

Mr. Chairman: My own has that:

“Board means the Board of the Trinidad and Tobago Civil Aviation Authority Act established...”

[*Interruption*]

Sen. Morean: No, no, it is not the Act, it is the board.

Mr. Chairman: Or, to take out the word “Act”?

Sen. Morean: Yes, to take out the word “Act”, delete the word “Act”.

Mr. Chairman: Treat it as typographical also?

Sen. Morean: Yes, that is typographical. There is another typo—I do not know if you would call it a typo—on page 2, “air navigation”.

Mr. Chairman: What part?

Sen. Morean: It says:

“air navigation’ means the practice of controlling, guiding and operating aircraft from airport of departure to predetermined airport of destination, including alternate airports.”

I do not know whether all the rest that follows can be accorded as part of the definition of air navigation. I think it is an error that that is attached there, that whole sentence.

Sen. John: No, that is supposed to be there, on the basis of technical advice.

Mr. Chairman: That would not be typographical.

Sen. Prof. Ramchand: It seems to be Indian, Indian English because it leaves out a lot of the definite articles:

“...operating aircraft from airport of departure to predetermined airport of destination...”

[*Laughter*] It should read:

“...from the airport of departure to the predetermined airport of destination...”

Mr. Chairman: Yes, but they are leaving this on technical advice.
[*Crosstalk*]

Sen. Gillette: If you read also:

“To ensure safety, regularity and efficiency of civil aviation operations...”

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What is even more important is “standardization and common understanding among all parties.” For example, if you have different languages going into different airports, that is why you have that air navigation—common understanding. It is a standard definition.

Mr. Chairman: What is the position?

Sen. Prof. Ramchand: It is just a minor—I suppose it is quite minor, Mr. Chairman, whether you want to insert the “the” before—[*Interruption*]

Mr. Chairman: Which part is that?

Sen. Prof. Ramchand: Line two:

“‘air navigation’ means the practice of controlling, guiding and operating aircraft from the airport of departure to the predetermined airport of destination...”

Sen. Gillette: Or, “from airports of departure to predetermined airports of destination”.

Mr. Chairman: No, no, that does not make a difference.

Sen. Prof. Ramchand: If you leave out the “predetermined”, it is okay, “from airport”—but it is still kind of—I think it is “from the”. I think we should insert the “the”.

Mr. Chairman: It should not. It does not make a difference. It does not alter it, I am told by the experts. So we shall leave it as it is.

Sen. Prof. Ramchand: It certainly is not West Indian English and it is not English English.

Sen. Prof. Kenny: It is not standard English.

Sen. Daly: It is New Zealand English.

Mr. Chairman: I am told it is legal English.

Sen. Prof. Ramchand: It is legalese, which may not be English at all.

Mr. Chairman: Shall we move on?

Sen. Daly: Yes, please.

Question put and agreed to.

Clause 2 ordered to stand part of the Bill.

Clause 3.

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

Mr. Chairman: There is a proposed amendment by Sen. Prof. Ramchand.

Sen. Prof. Ramchand: Mr. Chairman, I beg to move that clause 3 be amended as follows:

Line 1, after the word Minister delete “may” and insert “shall”

I think I explained, Mr. Chairman, why I was unhappy with “may” and would prefer “shall” and also why “with which the board shall comply” seemed a bit offensive and I would prefer “and the Authority should give effect to any such directions”. I do not think it should matter too much to the Government to make that change but I think the “shall” is very important. If the Minister gives me “shall” I would not argue for the “comply”.

Sen. Prof. Kenny: But it has to be “shall”, because if he says “may” they—
[Inaudible]

Sen. John: I hear it all the time that the Minister has too much power and now you are saying “the Minister shall”, to me you are compelling the Minister. I think we should leave it up to the Minister’s discretion.

Sen. Prof. Ramchand: Yes, “may” means that he may not do it in relation to the Authority, he may give somebody else those instructions.

Sen. John: No, he may give to the board.

Sen. Prof. Ramchand: The Minister may or may not but “shall” means he has to.

Sen. Lucky: Sen. Ramchand, if you look at what the purport of subsection (2) to that clause is, what they are saying is that the Minister may give and what is important is that the board shall have to comply. So that, if you were to say, “the Minister shall give to the board”, that is not really what is important. What is important is that the Minister may give, so you are leaving the discretion or the option but, once it is given, the board has to comply. Your point that the Minister may give it to some other entity besides the board—[Interruption]

Sen. Prof. Ramchand: Yes, yes.

Sen. Lucky: But if the Minister gives it to somebody else—to be ridiculous, to say, to give it to me, I can do nothing with it. I do not even have to comply with it. I do not have the power to carry out anything. So what is important is the

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Minister having the option but, once the option is exercised, the board carrying it out. That is what is important.

Sen. Prof. Ramchand: Okay, withdrawn.

Mr. Chairman: The proposed amendment is withdrawn.

Amendment withdrawn.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Clause 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the Minister and also one by Sen. Morean.

Sen. Dumas: I have a question on clause 5(c). I do not know if I could—
[*Inaudible*]

Sen. John: We have a question on 5(c), Sir, the Ministry of Transport, and then 5(h).

Mr. Chairman: What we should do is, since we have so many amendments, we will look at all the amendments simultaneously and make any necessary amendments. Which one do we want to do? We have two, Sen. Morean and the Minister.

Sen. John: Clause 5(c) first.

Mr. Chairman: Under the Act in terms—following the thing according to the numbers—[*Interruption*] Sen. Dumas, do you have anything before 5(c)?

Sen. Dumas: I have a question, Sir. I do not know if I could get clarification.

Mr. Chairman: All right, go ahead, raise it.

Sen. Dumas: I am reading 5(a) and I am remembering the Minister suggesting that maybe we do not understand what a civil aviation system is but I do not see it defined in the definition section, so I was wondering if she could help us clarify it quickly.

Sen. John: Sir, there was confusion between what could be downgraded.

Sen. Dumas: All I am saying is that 5(a) is—the primary function of the Authority is “to maintain a standard of safety and efficiency in the civil aviation system”, but that is defined nowhere.

Sen. John: You want a definition for that? It is really the way you operate your civil aviation industry, the civil aviation operations, how you manage the licensing of your aircraft, your airmen—the operation. It has to do with the operation.

Sen. Dumas: I was just reading it and suggesting that is the primary function of the Authority, the central function of the Authority, and therefore one would hope that somewhere in the definitions we would have a definition of the civil aviation system. I mean—[*Interruption*]

Sen. Gillette: One thing, it says here “The functions of the Authority”, and it talks about the Chicago Convention. Does that help you? It talks about the Chicago Convention. It describes all of the standards associated with the civil aviation system.

Sen. Dumas: I will let it be.

Mr. Chairman: Okay, let us move on. The first one we have is clause 5(c). Minister, could you propose your amendment and explain it?

Sen. John: Mr. Chairman, I beg to move that clause 5 be amended as follows:

Delete and substitute the following—

“(c) to licence aerodromes with or without conditions, and to regulate the same;”

Yes, well, it is really to clarify. Sir, the language was very convoluted here, so we are just inserting “with or without conditions”. It is really to clarify further what is stated in (c). [*Interruption*] Yes, rewording.

Mr. Chairman: Any other contributions on 5(c)? Generally agreed?

Question, on amendment, [Sen. John] put and agreed to.

Mr. Chairman: All right, we will move on to 5(h).

8.30 p.m.

Sen. Morean: The development of civil aviation and the maintenance of a civil aviation system that is consistent with national security policies, and since we are dealing with the safety standards and the convention, I thought that we

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should include at the end of this, after policy, “and accords with international safety standards”. The amendment is as follows:

Insert after the word “policy” the words “and accords with international standards”.

Sen. Lucky: Senator, if you look at 5(a) which deals with “to maintain a standard of safety and efficiency in the civil aviation system” which puts it in line with the international requirements, your suggestion with international safety standards has already been encompassed in (a), but what (h) is seeking to do is now to put in the local element that is consistent with national security policy.

Sen. Morean: That point is taken because I see it here included.

Amendment withdrawn.

Sen. Montano: Mr. Chairman, the Minister’s proposal to change clause 5(2) is not really accurate. It is not 5(2) at all.

Mr. Chairman: I am looking for 5(2) but we do not have it.

Sen. Montano: There is no 5(2). It is just clause 5, and it is to amend (i), (j) and new (k).

Sen. Morean: It is just a typographical error in (i).

Sen. Lucky: Take out the word “and”. We are doing (i) first.

Mr. Chairman: So, subclauses (a) and (b) can be treated as typographical, but (c) is an amendment.

Sen. Lucky: That is right.

Sen. Augustus: Subclause (c) is an addition. That is why you are moving the punctuation. The punctuation is being corrected because you are adding a (k). That is what I am gathering here.

Mr. Chairman: Are we agreed on 5(a) and (b)?

Hon. Senators: Yes.

Sen. John: It is taking out the “and” in (i) and putting it at the end of (j) because we are introducing a (k). It is not really a typographical error. It is an amendment. We are putting it at the end of (j) because we have another subclause coming after.

Mr. Chairman: Delete the full stop at the end of subclause (j) and insert a semicolon and the word “and”. Let us move on to (c).

Sen. John: I propose the following amendment by adding a new paragraph (j):

“to utilize the property of the Authority in such a manner as may appear to the Authority to be requisite, advantageous or convenient with a view to making the best use of any of the property of the Authority in relation to its functions under the Act; and”

It came from the old Act, Mr. Chairman. It was inadvertently omitted, so we are just putting it back in.

Sen. Morean: Mr. Chairman, in (j), should we have two words before that “such”: “to perform”?

Mr. Chairman: Where is that, Senator? That is (k). Let us deal with (k). Any problems with (k)? What did you want to raise on (j), Senator?

Sen. Morean: The words “to perform” should be inserted before “such”.

Mr. Chairman: Any other comments on the areas of clause 5?

Sen. Morean: Mr. Chairman, if we are passing legislation, we just have to do it so that we do not look stupid after. Subclause (h) does not seem to be in accord with the tenor of all the others.

“(h) the development of civil aviation and the maintenance of a civil aviation system...”

Was there an amendment to that?

Sen. Lucky: It would be flowing from the words in clause 5, “The functions of the Authority are—the development of civil aviation”. So, it makes sense. That is why even in (j), the words “to perform” were not necessary, because it would go, “The functions of the Authority are, such other functions”. You do not need the words, “to perform”, having read it in the context of “The functions of the Authority are”.

Sen. Dr. Phillips: Mr. Chairman, could I suggest that (k) should come before (h) and change the numbering? Because (h) seems to be a final all-inclusive clause.

Mr. Chairman: You wanted (h) to become (k).

Sen. Lucky: So, (j) becomes (k) and (k) would become (j).

Mr. Chairman: Let me work this out myself. After (g), the new (h) would be “to advise the Minister”?

Sen. Lucky: There is no new (h). The only thing that changes is the (j) and the (k). We just want what is now (j) to become (k) so it would be last.

Mr. Chairman: I thought what she said was that (h) should be the last clause.

Sen. Lucky: It should be (j).

Mr. Chairman: Oh. Sorry.

Question put and agreed to.

Clause 5, as amended, ordered to stand part of the Bill.

Clause 6 ordered to stand part of the Bill.

Clause 7.

Question proposed, That clause 7 stand part of the Bill.

Sen. King: Mr. Chairman, I think it was asked by three persons whether clause 7(a) and (b) are relevant in such a Bill like this and I propose the following amendment to clause 7:

Delete subclauses (a) and (b).

Mr. Chairman: That is agreed. [*Desk thumping*] Renumber subclauses (c), (d) and (e) to (a), (b) and (c).

Question put and agreed to.

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8.

Question proposed, That clause 8 stand part of the Bill.

Sen. John: Mr. President, I propose the following amendment to clause 8:

A. Renumber clause 8 as 8(1)

B. Insert a new subclause (2) as follows:

‘(2) Subject to subsection (1), the Authority shall perform its functions and exercise its powers in a manner that ensures, as far as is practicable, that the environment is protected from any detrimental affects associated with the operation and use of aerodrome and aircraft and for this purpose the Authority

shall observe the provisions of the Environmental Management Act, 2000 and any other written law”.

Sen. Prof. Ramchand: Mr. Chairman, I am quite happy to withdraw my amendment and accept the Minister's amendment. The one question I would raise is whether a suggestion by Sen. Outridge that “aircraft” be replaced by “aerodromes” would be acceptable. It is at clause 8(2). The Minister’s amendment is exactly the same as mine, but what I am saying is that Sen. Outridge had asked whether we would want to delete the word “aircraft” and use the word “aerodromes”.

Sen. Lucky: Do you mean the first word on the fourth to last line?

Sen. Prof. Ramchand: Yes.

Sen. John: I have been advised that we can insert “aerodrome”, but it is specific to aircraft, so if you want, we can insert “aerodrome”.

8.45 p.m.

Mr. Chairman: Sen. Prof. Ramchand are you withdrawing yours?

Sen. Prof. Ramchand: Yes, it is the same thing.

Question put and agreed to.

Clause 8, as amended, ordered to stand part of the Bill.

Clause 9 ordered to stand part of the Bill.

Clause 10.

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

Mr. Chairman: We have three proposed amendments by the Minister, Sen. King and the Minister in the Attorney General's office. [*Crosstalk*]

Sen. Lucky: Mr. Chairman, I beg to move that clause 10 be amended as follows:

Commence the clause with the words “Notwithstanding the designation of Airports Notification relating to the Piarco International Airport and the Crown Point Airport,”

Mr. Chairman, this amendment would give that level of clarity that is needed so that there is the distinction in function. Under the Airports Authority Act, the subsidiary legislation, there is a clause that specifically gives the Airports

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Authority the power for management and control. So by putting in the word “Notwithstanding” it would make it very clear that this exclusive right, which would be given to the Authority under the Bill, would be the power of the Authority and there would be no duplication. The point was actually raised by Sen. Martin Daly and it is with his assistance that this was able to be drafted.
[*Interruption*]

Sen. Daly: It is supposed to be capital D.

Sen. Lucky: Capital D for “designation”. After “Notification” if we could insert the year 1978. It would be the third line, Mr. Chairman, after the words “Airports Notification”, if we could insert “1978” and capital D for “Designation” in line two as the word appears. I think that would give us the clarity that we need.

Mr. Chairman: That is inserted at the beginning of clause 10.

Sen. Lucky: That is right, Mr. Chairman.

Mr. Chairman: Is that agreed?

Sen. King: Mr. Chairman, I beg to move that clause 10 be amended as follows in subclause 10 (f):

Delete the words “;and”

Sen. Lucky: Mr. Chairman, there is a proposed amendment by the Minister of Transport as follows:

Reletter paragraph (f) as paragraph (e), and paragraph (e) as paragraph (f).

Mr. Chairman, if that is done then Sen. King’s proposal could be respectfully withdrawn because it addresses that issue.

Mr. Chairman: That would be okay with you Sen. King?

Sen. King: Yes.

Amendment withdrawn.

Mr. Chairman: Is everybody in agreement with the amendment as proposed by the Minister:

Reletter paragraph (f) as paragraph (e), and paragraph (e) as paragraph (f).

Question put and agreed to.

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

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by Sen. Morean.

Sen. Morean: Mr. Chairman, I beg to move that clause 11 be amended as follows:

Insert after the word “President” the words “after consultation with the Prime Minister and the Leader of the Opposition”.

Earlier on I stated my reasons for wanting the inclusion of these words after the word “President”. It is true that a certain Senator took issue with me for making mention of the NWRHA in my reasons for holding that there should be transparency and we would like to see a lack of political patronage in the appointees to the boards. I believe that this is the only way or, perhaps, one of the ways to ensure that we do not have the sort of situation that we now see happening in that particular board. This is why I am proposing this amendment. [*Crosstalk*]

Sen. Dr. Phillips: Mr. Chairman, I think that that is a very unfortunate kind of statement, because it implies that given all the boards and commissions we have, if there is a problem in one board, it is because of political appointment. Therefore, it is implying that some particular person is responsible for what is going on with the board. I find that is very unfortunate.

In addition to that, we have been debating this whole issue of the role of the Minister in the responsibility for the boards and we find now that with one board there are certain allegations, the assumption is that there is political interference and it is politically motivated. I cannot just accept that so at all and to change this on the basis of that, I do not agree with that at all.

Sen. Morean: May I just respond briefly, Mr. Chairman. What I have said is just by way of example. This is just one example and it is not necessarily attacking anyone personally, but it is stating what can happen as a result of political appointments on boards. [*Crosstalk*]

Sen. Lucky: I cannot accept that proposal.

Mr. Chairman: The Minister is saying that this proposal is unacceptable. I shall put it to the vote.

Question on amendment, put and negatived.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clause 12.

Question proposed, That clause 12 stand part of the Bill.

Mr. Chairman: There is a typographical error in clause 12 in the second line, the word “by” should be deleted.

Question put and agreed to.

Clause 12 ordered to stand part of the Bill.

Clause 13 ordered to stand part of the Bill.

Clause 14.

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

Mr. Chairman: There are three proposed amendments by Sen. Montano and the two Ministers.

Sen. Montano: Mr. Chairman, I beg to move that clause 14 be amended as follows:

A Insert new subclause (5) to read:

For the purposes of this section, a person who or a nominee or relative of whom, is a shareholder who owns shares in excess of five per cent or is a partner in a company or other body of persons other than a statutory authority or who is an employee thereof, shall be treated as having a pecuniary interest.

B Insert new subclause (6) to read:

In this section “relative” means spouse, cohabitant within the meaning of the Cohabital Relationships Act, father, mother, brother, sister, son or daughter of a person.

My proposed amendments were simply to bring in the two clauses from the previous Act that had been omitted. I have brought them in verbatim. [*Crosstalk*]

Mr. Chairman: We will deal with clause 14(1) first, then (2) and then (5).

Sen. Lucky: Mr. Chairman, I beg to move that clause 14 be amended as follows:

Insert after the words “A member who”, the word “otherwise”.

The purpose of the proposed amendment in 14(1), is that, as it stands there it says “Every member of the Board”, but we wanted to include, specifically, the Director General. Although in clause 11(1) the Director General is made an *ex officio* member, for the purposes of being very clear, it is proposed that it should read:

“Every member of the Board...”

And after the word “Board”—Mr. Chairman, I know it has “the Director General”, that should really be “including the Director General”. In the proposed amendment, if the words “and the” could instead be replaced by “including the Director General” I think that would make it very clear. It is something we hope we get support on, because the Director General would also have to be clear. [*Crosstalk*]

Mr. Chairman: Is that agreed?

Sen. Prof. Ramchand: Could you clarify line two of clause 14(1) where it says shall “submit to the President by way of a declaration in the prescribed form”. Should we delete “by way of” so it would read: “submit to the President in the prescribed form”?

Sen. Daly: Why do we need a form to say I do not have and thereby give them the opportunity to say, “Well, yuh eh prescribe the form so I eh do it.” It is a negative statement. It is not a form we have to fill in anything. Just say: “shall submit a declaration”.

Sen. Lucky: Yes.

Sen. Daly: I declare; I do not have. So they could do it tomorrow or later tonight.

Sen. Lucky: That is correct. I concur. [*Crosstalk*]

Mr. Chairman: Let me see if I get it right. It would be: “Every member of the Board including the Director General shall on appointment and annually thereafter, submit to the President a declaration stating” (a), (b) and (c) and so forth. Is that agreed?

Hon. Senators: Yes.

9.00 p.m.

Sen. Prof. Ramchand: Mr. Chairman, may I ask a question about the terms of office? For how long can these fellows serve on the board? What is the tenure?

Mr. Chairman: It is in the schedule.

Sen. Prof. Ramchand: As long as it is there.

Mr. Chairman: Shall we move on to 14(2)?

Sen. John: We will accept.

Sen. Lucky: Mr. Chairman, the proposed amendment is:

Insert after the words "A Member who" the word "otherwise".

That is based on the fact that one wants to ensure that whatever the member has to declare is not already captured in (a) and (b) and the declaration that he would not engage in any business in (c) is caught in that subsection too because (a) and (b) are not all inclusive.

Sen. Prof. Ramchand: It certainly is not elegant and I do not know that it does anything. I think "a member who has a pecuniary interest in a matter being considered by the board" is clear enough. It makes a sufficient distinction between that and the previous declaration and the subsequent clauses make it even clearer.

Sen. Lucky: Mr. Chairman, in those circumstances, I withdraw the proposed amendment relating to 14(2).

Mr. Chairman: We move on to 14(5).

Sen. Montano: Mr. Chairman, by proposing simply to bring in subclauses (4) and (5) of the previous Act that we are about to view. I proposed that clause 14 be amended as follows:

A. Insert new subclause (5) to read:

For the purposes of this section, a person who or a nominee or relative of whom, is a shareholder who owns shares in excess of five per cent or is a partner in a company or other body of persons other than a statutory authority or who is an employee thereof, shall be treated as having a pecuniary interest.

B. Insert new subclause (6) to read:

In this section “relative” means spouse, cohabitant within the meaning of the Cohabital Relationships Act, father, mother, brother, sister, son, or daughter of a person.”

Sen. Lucky: Mr. Chairman, we agree with Sen. Montano's amendment.

Question put and agreed to.

Clause 14, as amended, ordered to stand part of the Bill.

Clause 15.

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

Sen. John: Mr. Chairman, I withdraw my amendment to clause 15.

Amendment withdrawn.

Sen. Lucky: What is listed as 15(1) should be 15(4).

Question put and agreed to.

Clause 15 ordered to stand part of the Bill.

Clause 16.

Question proposed, That clause 16 stand part of the Bill.

Sen. Prof. Ramchand: I am quite happy to have the Minister's adoption of my amendment stand and withdraw mine.

Mr. Chairman: You are withdrawing yours, Sen. Prof. Ramchand?

Sen. Ramchand: Yes, the Minister has proposed the same one.

Amendment withdrawn.

Sen. John: Mr. Chairman, my amendment to clause 16(4) is as follows: Delete what now exists and insert the following subclause (4):

“In directing a variation of the Plan, the Minister shall be guided by the established objectives and policies of the Government.”

Sen. Prof. Ramchand: In my amendment I had said to call the existing 16(4) 16(5). You may not want to throw out the existing 16(4) so that would be renumbered 16(5). So we are inserting a new 16(4) and renumbering the existing 16(4) as 16(5).

Mr. Chairman: Delete the existing 16(4).

Sen. Lucky: No, Mr. Chairman, it should read “insert the following subclause, which would be now numbered as subclause (5)”. It is an addition, there is no deletion.

Mr. Chairman: So it is really a new subclause. So what we are doing is including a new subclause (4) and renumbering subsequent subclauses (5) and (6).

Sen. Lucky: Mr. Chairman, what is now subclause (4) will become subclause (5) and the new subclause will become subclause (4).

Sen. Morean: Mr. Chairman, there is a typographical error in subclause (3). In the last word “therefore” remove the “e” at the end of it.

9.10 p.m.

Sen. Dumas: Mr. Chairman, it is my view that clause 16(4) as proposed, except we have a source that these established objectives and policies come from, it does not mean anything. “In directing a variation of the Plan, the Minister shall be guided by the established objectives and policies of the Government.” Where are we getting that from?

Sen. John: The Government. It is a policy decision. You should be happy.

Sen. Dumas: You are proposing, “shall be guided by the established objectives and policies of the Government.” What and where do I get those from?

Sen. John: That is Cabinet policy. That is for the Minister to be guided by, to work with.

Sen. Dumas: So it is the ones that you are going to establish.

Sen. John: Which the Cabinet will approve. There must be an underlying policy driving civil aviation which will go to the Cabinet and they will approve it, as the Government, and you will not depart from that.

Sen. Dumas: So you are putting that somewhere before this one? I am saying that there is no previous requirement for this, is there?

Sen. Lucky: Clause 3(1) talks about the functions of the Minister, saying that the Minister shall be responsible, among other things, for the development of policy on air navigation. So what would happen is, the Minister develops that policy; the policies go to the Cabinet, and with the approval of the Cabinet, the Minister has to make sure it is implemented.

Sen. Dumas: I have no problem with it being consistent, I am just saying that I am seeing, “be guided by the established objectives and policies of the Government”. If there is a previous place—that is all I am asking.

Sen. Lucky: I do not understand, “a previous place.” What I am saying is, this is what the Minister will have to be guided by.

Sen. Dumas: We can spend all night being rude to each other, but that does not make sense. I hope we are not going to do that. All I am saying is, I am looking at something and I am slightly confused by what I read and I am seeking assistance. If people feel that is debate, well. But all I am asking is, tell me what is the source of these objectives and policies of the Government.

Sen. John: That is what the Minister would have submitted to Cabinet.

Sen. Dumas: Thank you very much.

Question put and agreed to.

Clause 16, as amended, ordered to stand part of the Bill.

Clauses 17 and 18 ordered to stand part of the Bill.

Clause 19.

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

Sen. John: Mr. Chairman, I beg to propose an amendment which reads as follows:

19(1) Delete the word “three” occurring in line one and substitute the word “six”.

19(3) Insert at the commencement thereof the following words:

“Subject to the provisions of the Constitution, and the Exchequer and Audit Act,”.

Sen. Yetming: Mr. Chairman, what we want to do is to change that clause 19(1) from three months to six months which would allow for the subventions to be built into the budget, and under clause 19(3), to put in at the top of clause 3, the words, “Subject to the provisions of the Constitution, and the Exchequer and Audit Act,” which is really to clarify the fact that these things are to operate in accord with established statute.

Question put and agreed to.

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

Clause 20 ordered to stand part of the Bill.

Clause 21.

Question proposed, That clause 21 stand part of the Bill.

Sen. John: Mr. Chairman, I beg to propose an amendment which reads as follows:

Insert after the word “Board” occurring in line two “or the Minister of Finance”.

Sen. Yetming: Mr. Chairman, what is being proposed is that in line two of clause 21(6), we include after the word, “Board”, the words “or the Minister of Finance”. The purpose there is that, apart from the Auditor General or the board, the Minister of Finance would have the right to perform any selected or complete audit as may be required.

Sen. Dumas: I want to question why the Minister of Finance? How does he get in there? I am just trying to understand, please. That is all.

Sen. Yetming: Well the purpose is simply that a body like this would be receiving substantial subventions from the Government. Let us forget the board requiring an independent audit and commissioning it, the Auditor General would have the right to go in to do the auditing of the accounts, but there may be times when you will hear of information—North West Regional Health Authority, or whatever it is—and where you do not have hard evidence for you to commission—as you may have the right to do by virtue of the Exchequer and Audit Act to ask the Auditor General to go in—the Minister of Finance may wish to send in members of his budget department to verify whether certain things may or may not be happening inside of the Authority.

Sen. Dumas: That can be done by the Minister.

Sen. Yetming: I prefer that the Minister, by legislation, has the right through the Exchequer and Audit Act to send in the Auditor General, but I may not have the right to send somebody from the budget department to go in and verify information that may come to my attention.

Question put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clauses 22 and 23 ordered to stand part of the Bill.

9.20 p.m.

Clause 24.

Question proposed, That clause 24 stand part of the Bill.

Sen. Lucky: Mr. Chairman, I beg to move that clause 24 be amended by inserting the words, “the Board shall with the approval of the Minister”. The word approval and the apostrophe after Minister are coming off.

Sen. Dr. Gopeesingh: Why not say, “the board shall with the Minister’s approval”?

Sen. Prof. Ramchand: Mr. Chairman, before you finalize, there is a mistake on Sen. Outridge’s amendment. He really meant clause 24(2).

Sen. Morean: Mr. Chairman, I beg to move that clause 24 be amended by replacing the word “negative” with the word “affirmative”.

Mr. Chairman: I think that Sen. Morean has the same thing. Sen. Morean, will you withdraw yours? It is basically the same.

Sen. Morean: I will withdraw mine.

Amendment [Sen. G. Morean] withdraw.

Mr. Chairman: Sen. Outridge, do you want to elaborate on this proposal?

Sen. Outridge: Yes, Mr. Chairman. The intention of the amendment is to ensure that the Central Tenders Board and the Auditor General be part of the process in making the rules that would govern the form in which tenders for goods, services and supplies may be procured by the board or the Authority.

Mr. Chairman: Do you want to say why?

Sen. Outridge: The history of boards making their tender rules has shown that they have not been able to do those and give the level of transparency and accountability which the public desires. For this reason, I believe that if we want to remove the Central Tenders Board from providing that level of accountability and transparency, we should have them involved at the time when the rules are being drafted.

We have found recently, that the Auditor General came in after acts had already taken place. He has had to ask for explanations. We would like to ensure

that the Auditor General is involved there. We can ensure that those rules would be quite comprehensive and have the level of transparency and accountability.

Sen. Mark: Maybe the Minister of Finance can clarify. My understanding is that once a government state board or body is subject to the Central Tenders Board, in terms of its rules and regulations and it is proceeding to establish its own rules to govern its activities in terms of tendering, there is a provision in law that says you must have the Central Tenders Board as part of the formulation of any rules for the particular board or organization in question. If they talk about their rule, it does not mean to say that this Authority would go *carte blanche* and establish its own rules.

Sen. Prof. Ramchand: Clause 24(1) states very clearly that the Authority is not subject to the provisions of the Central Tenders Board Ordinance. We are trying to offer some protection given that there is clause 24(1).

Normally, it would be under the Central Tenders Board Ordinance. It has been specifically stated here that it is not. It is until it has made its own rules. When it is making its rules, it would then release it from being under the Central Tenders Board. It should consult with the Central Tenders Board and the Auditor General in making its own rules.

Sen. John: These rules still come to Parliament. If there are problems with the rules, they can be debated. The Auditor General has the option to come in at any time to conduct audits, whether performance or financial.

Sen. Outridge: Mr. Chairman, it has been shown that the Airports Authority in making its own tender rules did not come to Parliament to vary them. They got the approval of Cabinet to vary their tender rules to exclude the Central Tenders Board. This was done just before the award of the contract to Birk Hillman. For that reason we want to ensure that we do not get a repeat of a situation like that.

Sen. John: We are satisfied that the rules would be laid in Parliament and the opportunity would be presented for the rules to be debated.

Sen. Morean: Is the Minister saying that we have changed from negative to affirmative?

Sen. John: No. Even if it is negative resolution, my understanding is that it would still come to Parliament.

Sen. Dumas: Why do you want to move this from Central Tenders Board?

Sen. John: The reason you set up an authority besides that safety and security issue is for the autonomy.

Sen. Dumas: The Minister just informed me that they want to ensure they have a certain intervention. Maybe, they should consider a conceptual control or a larger framework for control. If they are deliberately going to take it out of the rules which are set up now, what is the restraint in making sure the rules meet a wider purview? Put it in the affirmative in spite of whoever shakes their head at you.

9.30 p.m.

Sen. Prof. Ramchand: You are taking away the Auditor General. You should lean a bit and compromise too. It would be brought to the Parliament for affirmative resolution of Parliament so we can debate it without having to go through the long rigmarole of bringing a motion.

Sen. John: I would then have to be guided by the Cabinet. This would have to be a policy decision of the Government.

Sen. Als: There is no taking away of the Auditor General's responsibilities in this Bill. In fact, it is always there. The Auditor General would always have his authority.

Sen. Daly: Mr. Chairman, we are just asking for affirmative resolution. I would like to say why I am supporting. I cannot believe we have to go back to the Cabinet to change negative to affirmative. That is just more bad and incompetent advice. It cannot be! We are asking for an affirmative resolution—as I said in my contribution—and this Authority is no exception. They keep doing things before the legislation is passed. What is going to happen next is that the director general, this chairman and board that are already in place and have not yet signed their declaration—I will put my head on a block—will give out tenders on the basis: “Well, they are going to send the resolution some time soon and anyway, it is only negative.”

The whole history of this is very bad because they have been proceeding as though the legislation is already in place. The whole history of the airport since the PNM time was bad, so why can we not, in the circumstances of this case, have an affirmative resolution to remind these interlopers—which is what they are, if they have not signed their declarations—that the institutions of government have to be respected. There is already a director general who has probably been on five

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[SEN. DALY]

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or six foreign trips and the legislation has not been passed. We have to put a little safeguard in here.

Sen. John: We are satisfied that with a negative resolution, it would be laid and it can be debated.

Sen. Daly: A total waste of time.

Mr. Chairman: I now put the proposed amendment by Sen. Outridge to the Senate.

Sen. Outridge: Mr. Chairman, I beg to move that clause 24(2) be amended as follows:

Delete the words “subject to negative resolution” and insert after the word “Rules” the words, “in conjunction with the Central Tenders Board and the Auditor General subject to affirmative resolution.”

Question, on amendment. put.

The Committee divided: Ayes 13 Noes 16

AYES

Montano, D.

Yuille-Williams, Mrs. J.

Dumas, R.

Morean, Ms. G.

Kangaloo, Ms. C.

London, J.

McKenzie, Dr. E.

Daly, M.

Teelucksingh, Rev. D.

Kenny, Prof. J.

Ramchand, Prof. K.

King, Mrs. M.

Outridge, D. I.

NOES

Gillette, Hon. L.

Yetming, Hon. G.

John, Hon. J.

Lucky, Hon. G.

Phillips, Dr. The Hon. D.

Moonilal, Dr. The Hon. R.

Gopeesingh, Dr. T.

Lasse, Dr. V.

Mark, W.

Ahmed, Mrs. R.

Lambert, J.

Als, M.

Augustus, Hon. R.

Jones-Kernahan, Dr. The Hon. J.

Cabrera, S.

*Question, put and agreed to.**Clause 24, as amended, ordered to stand part of the Bill.**Clause 25.**Question proposed, That clause 25 stand part of the Bill.*

Sen. King: Mr. Chairman, I beg to move that clause 25 be amended as follows:

Delete subclause (2).

Sen. Montano: Mr. Chairman, I beg to move that clause 25 be amended as follows:

Delete the words "salary amount" and substitute the words "total compensation including perquisites and bonuses".

Sen. Yetming: Mr. Chairman, I beg to replace clause 25(2) as follows:

Civil Aviation Bill
[SEN. THE HON. G. YETMING]

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“The Board shall not fix the terms and conditions of service and salaries for executive management without the prior approval of the Minister.”

All government bodies and state corporations come under the purview of the respective Ministers, but really come under the Chief Personnel Officer. The intention is by the referral to the Minister and by virtue of the manner in which we currently function, that the salaries of all state boards and statutory bodies are guided by an inter-ministerial committee on the advice of the CPO. That is to ensure that there is consistency in the manner in which salaries are treated. That is the purpose of this amendment.

Mr. Chairman: Anybody wants to make a comment on that?

Sen. Daly: Through you, Mr. Chairman, can we take it therefore that the already appointed director general is not getting his \$40,000 a month? They have appointed him already.

Sen. John: He is not getting \$40,000 a month. Mr. Chairman, I was wondering if we can make a further amendment to Minister Yetming’s suggestion and add:

“The Board shall not fix the terms and conditions of service, salaries and perquisites for its executive management...”

Therefore, we can incorporate some aspect of Sen. Montano’s amendment.

Mr. Chairman: Sen. Montano, do you have something on this?

9.40 p.m.

Sen. Montano: Mr. Chairman, I do not know where the Government is going with these salaries. I would just leave it at this point. I do not know how else to control it. I will go along with the Minister’s proposal. I wish to withdraw my amendment.

Amendment withdrawn.

Sen. King: I go along with the Minister of Finance's suggestion. I withdraw.

Amendment withdrawn.

Question put and agreed to.

Clause 25, as amended, ordered to stand part of the Bill.

Clause 26.

Question proposed, That clause 26 stand part of the Bill.

Sen. Morean: Mr. Chairman, I beg to move that clause 26 be amended as follows:

Delete subclause 26(2) and renumber accordingly.

Question put and agreed to.

Clause 26, as amended, ordered to stand part of the Bill.

Clauses 27 and 28 ordered to stand part of the Bill.

Clause 29.

Question proposed, That clause 29 stand part of the Bill.

Sen. Morean: Mr. Chairman, I beg to move that clause 29 be amended as follows:

Insert immediately after the word “Act” in line five, the words “or the Pensions Extension Act”.

Sen. John: Mr. Chairman, I have been advised that the Pension Act covers public servants and the Pensions Extension Act covers employees of statutory boards, so we need to insert both of them.

Sen. Dumas: Hon. Minister, most of what you have said was lost to us. Can we hear what you have said?

Sen. Lucky: The Pensions Act covers public servants, but the Pensions Extension Act covers employees of statutory boards, so we wanted to make sure that they were included. That is why we need to insert that piece of legislation. Mention has to be made of the Pensions Extension Act.

Question put and agreed to.

Clause 29, as amended, ordered to stand part of the Bill.

Clause 30.

Question proposed, That clause 30 stand part of the Bill.

Sen. John: Mr. Chairman, I beg to move that the Bill be amended as follows:

- (1) Delete the words “the pension fund” occurring in line five.
- (2) Insert immediately after the word “Act” in line three, the words “or the Pensions Extension Act”.

Sen. King: Mr. Chairman, I was not too sure if we are deleting “pension fund” or we are deleting the word “fund”?

Mr. Chairman: Sen. King, do you have a problem?

Sen. King: I have a question which was not answered. Are we deleting the words “the pension fund” or the word “fund”? Can we say “the plan”? You must relate it to what is in the margin.

Sen. Lucky: The words “pension fund” that you are deleting appears in line 4. The ones that are proposed to be deleted are “the pension fund”, that comes before the word “salary” in line 5. There is no “pension fund salary”. The employee “in receipt of a salary higher...”. That is line 5 of clause 30(1). It is a typographical error.

Sen. King: You are talking about line 5?

Sen. Lucky: Five.

Mr. Chairman: Is it okay?

Sen. King: Okay.

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 31.

Question proposed, That clause 31 stand part of the Bill.

Sen. Yuille-Williams: Mr. Chairman, in line 3 of clause 31, the words “or is retrenched” refer to his post. I do not think a post can be retrenched.

Sen. Lucky: The suggestion, then, to clarify that point raised is to have it read:

“When an employee of the Authority who had exercised the option referred to in section 26(1)(b) dies, retires, is retrenched, or his post in the Authority is abolished...”

It would just be a matter of moving the phrase. Can we agree to that?

9.50 p.m.

Mr. Chairman: Hon. Senators, are there any other suggestions for amendments there? The suggested amendment to clause 31 reads as follows:

“When an employee of the Authority who had exercised the option referred to in section 26(1)(b) dies, retires, is retrenched or his post in the Authority is abolished and he was a member of the pension fund plan...”

Question put and agreed to.

Clause 31, as amended, ordered to stand part of the Bill.

Sen. Dr. Gopeesingh: Mr. Chairman, we would have to apply that to clause 30(1) in line 3 because the same thing exists there.

Mr. Chairman: Yes, the same thing applies in clause 30(1). Let us reopen clause 30(1) because we already approved it.

Clause 30 recommitted.

Question proposed, That clause 30 again stand part of the Bill.

Mr. Chairman: Is it okay to insert the words “is retrenched” in line 2 after the word “retires” and delete the words “or is retrenched” in line 3?

Question put and agreed to.

Clause 30, as amended, ordered to stand part of the Bill.

Clause 32.

Question proposed, That clause 32 stand part of the Bill.

Mr. Chairman: Hon. Senators, we have proposed amendments by Sen. Montano.

Sen. Montano: Mr. Chairman, I beg to move that clause 32 be amended as follows:

Insert new subclause (8) to read:

“all certificates of aircraft airworthiness and airman certificates shall continue to be valid until their stated expiry dates.”

Sen. John: Mr. Chairman, taking into consideration what Sen. Montano said: “all certificates of aircraft airworthiness...” all of that comes under the rubric aviation documents, so we are suggesting that we use: “any arrangements, contract or aviation documents”.

Sen. Montano: I can accept that, Mr. Chairman. I will withdraw my amendment.

Mr. Chairman: Hon. Senators, Sen. Montano has withdrawn his amendment in light of the Minister's proposed amendment.

Amendment withdrawn.

Question put and agreed to.

Clause 32, as amended, ordered to stand part of the Bill.

Clause 33.

Question proposed, That clause 33 stand part of the Bill.

Mr. Chairman: Hon. Senators we have proposed amendments by the Minister, Sen. King and Sen. Morean. Let us put this in order. Sen. King is at 33(l).

Sen. King: Mr. Chairman, I beg to move that clause 33(l) be amended as follows:

In line 1, substitute the word “out” for the “our”.

Sen. Lucky: Mr. Chairman, that is a typographical error. I think the word should be “out”. I agree with Sen. King. That is correct.

Mr. Chairman: Yes, I think 33(1) by Sen. King is a typographical error. Sen. King we will treat the first one as typographical. Then we have Sen. King again at (j).

Sen. King: Mr. Chairman, I beg to move that clause 33(i)(j) be amended as follows:

Substitute the word “as” for the words “of such”.

Sen. Lucky: In terms of Sen. King's proposal that we, in clause 33(i)(j), substitute the word “as” for the words “as such”, what if we could, for proper reading say “prohibiting the carriage by air of such goods”? The word “such” would go before “goods” and we put the word “as”, as suggested by Sen. King. We would have the word “such” before “as” and “as” instead of “of such”.

Mr. Chairman: “...as may be specified...”

Sen. Lucky: Yes, “as may be specified” Mr. Chairman. It reads: “prohibiting the carriage by air of such goods as may be specified by the Regulations;”

Mr. Chairman: Is that okay?

Sen. King: Yes.

Mr. Chairman: Now we move on to the Minister's proposed amendment.

Sen. John: Mr. Chairman, I beg to move that clause 33(1)(k) be amended as follows:

Insert immediately after the “goods” in line six, the words “after obtaining a warrant to do so”.

This section gives right of access. Mr. Chairman?

Mr. Chairman: Go ahead, propose the amendment.

Sen. John: I am saying this amendment is to ensure that due process is observed because there is the right to seize and detain. We are suggesting the words “after obtaining a warrant from a magistrate to do so.”

Mr. Chairman: Is that okay? Nobody is answering; I do not know what to do.

Senators agree.

Mr. Chairman: We move on to (l).

Sen. John: (l) should be (n), Sir.

Mr. Chairman: I think there is one by Sen. King in (n) also.

Sen. King: Mr. Chairman, I beg to move that clause 33(1)(n) be amended as follows:

Delete “on...”

Sen. Lucky: Sen. King, would you agree if the word “aircraft” is then included in (n) so it would read “registration of mortgages and other liens on aircraft”?

Sen. King: If that is what is meant. It is just that I did not understand your thoughts.

Sen. Lucky: Yes. Sen. King, are you then willing to withdraw your proposal?

Sen. King: Certainly.

Mr. Chairman: Let us hear what was agreed?

Sen. Lucky: Sen. King has pointed out that her proposal was based on not knowing what came after the word “on”. She is now saying that if the word “aircraft” would come after “on” she would be willing to withdraw her proposal.

10.00 p.m.

Sen. Prof. Ramchand: But are you saying that is what was missing?

Sen. Lucky: Yes, the word “aircraft” was missing.

Mr. Chairman: So that Sen. King will withdraw her proposed amendment in light of the Minister’s proposed amendment. Is that okay, Sen. King?

Sen. King: That is right.

Amendment withdrawn.

Mr. Chairman: Any more amendments?

Sen. Lucky: Mr. Chairman, I beg to move that clause 33(p) be amended as follows:

Delete the word “the” at the end thereof and substitute the words “this Act”.

In (p), Mr. Chairman, the words missing are “this Act” and, again, Sen. King’s proposal—[*Interruption*]

Sen. King:—suggests regulation. That is fine.

Sen. Lucky: You shot well in the dark, but we will ask that your proposal be withdrawn, please. It is our error, typographical.

Mr. Chairman: She will agree to withdraw.

Sen. Lucky: Thanks, Senator.

Sen. Morean: Was there an amendment to (2)?

Mr. Chairman: Sen. King, you will withdraw in light of the Minister's proposal?

Sen. King: Yes, Sir.

Amendment withdrawn.

Mr. Chairman: Is there any other proposed amendment to clause 33?

Sen. Lucky: Yes, to insert a new subclause.

Sen. John: To insert a new subclause.

Mr. Chairman: 33?

Sen. John: Yes.

Sen. Lucky: Should we read 33(6)?

Sen. John: Yes. Mr. Chairman, I beg to move that clause 33 be amended as follows:

Insert the following new subclause:

“(6) The Authority before taking any decision under subsection (5) which involves environmental considerations shall hold prior consultations with the Environmental Management Authority.”

We will have to hold consultation with the EMA and this will strengthen the section.

Sen. Morean: My amendment to that was—*[Interruption]*

Sen. Gillette: The same thing.

Sen. Morean: Yes, but no, it is a little different in the sense that, rather than having the Authority itself make decisions with respect to matters coming within the purview of the EMA, the EMA itself should issue the certificate, or whatever is required, before that licence is issued.

Sen. John: But I do not think the EMA has the technical expertise to treat with matters relating to aerodromes or civil aviation.

Sen. Morean: No, the adverse effects on the environment. That is what you would be dealing with. That is (5)(a).

Sen. John: How are they going to measure it?

Sen. Morean: The EMA would have the expertise because they are dealing—*[Interruption]*

Sen. John: To measure noise?

Sen. Morean: Yes. They are dealing with—they have noise pollution rules—all sorts of rules.

Sen. John: No, but this is specialist—*[Interruption]*

Sen. Morean: Nevertheless, they can get whatever expertise is required to make their decision. That is why you have set up the EMA. That is why you have the noise pollution rules. That is why you have the certificates being issued.

Sen. Dumas: Mr. Chairman, I want to suggest that the Minister—we have a number of things before us now which you pointed out, noise regulations and so

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on, which you have left in the hands of the EMA. As of this time, we have Senate documents which point to that. As you have said, Cabinet gives the policies and programmes. I mean, the legislation would have come from you.

Sen. John: No, we will go with the prior consultations.

Sen. Morean: I am not following that at all. The authority is the same thing. You are overriding the authority of the EMA.

Sen. Prof. Ramchand: No, but we have 8(2). I was wondering if we have 8(2)—[*Interruption*]

Sen. Morean: In a case like this, I think what is required is for the Authority to say, “Look here, you have come to me for a licence in relation to an aerodrome. You have to satisfy certain environmental conditions and you have to go to the EMA, get your certificate of clearance, or whatever it is, and come back.” I think that is how it should be done.

Sen. Lucky: While I understand what you are saying, Sen. Morean, what is being explained to me is that, if you were to take, for example, noise pollution—the aeroplane, noise pollution—that would not be within the purview of the EMA to make that determination as to what is exceeding the particular limit, and that is why you must have, “after consultation” because the EMA would not be in a position to grant a licence dealing with that.

Sen. Morean: No, no, they are not granting the licence.

Sen. Lucky: No, what I am saying, where you want to bring them in, requiring the licence to obtain the requisite clearance, I am saying the EMA—that would be out of their purview and that is why we have it as consultation.

Sen. John: You see, the noise levels within civil aviation, that is covered under one of the annexes in ICAO. So this would have to be measured by civil aviation. They have the measurement.

Sen. Morean: That would be out of their purview.

Sen. John: Because they are not a signatory to the ICAO Convention.

Sen. Morean: No, no, you see, I think we are mixing it up. They are not dealing with the ICAO regulations or conventions or whatever. They are simply dealing with the effect or the impact of the pollution on the community and there is where they come in.

Sen. John: But in civil aviation there are specific rules as dictated well by the ICAO, because we sign these conventions, and they have a specific level for noise with aircraft. So we are saying we are going according to these conventions because this is what this Bill is all about.

Sen. Morean: Yes, well even if you have these specific levels, these matters will be available to the EMA.

Sen. John: Certainly, and that is why we are going to consult.

Sen. Morean: No, but then you will not be issuing the certificates. It is not just consulting.

Sen. Prof. Ramchand: Approval of the—[*Inaudible*]

Sen. Morean: Because you have set up a body—[*Interruption*]

Sen. Prof. Ramchand: That is approval.

Sen. Morean:—for the purpose—[*Interruption*]

Sen. Outridge: But the consultation does not mean—[*Interruption*]

Sen. Prof. Ramchand: That has been conceded in clause 8(2) already so there should not be any difficulty putting approval over—8(2) when we inserted “aircraft” over “aerodromes”.

Sen. Outridge: But, Mr. Chairman, consultation does not mean approval.

Sen. King: We know what consultation means, nothing.

Sen. Outridge: We can consult and the EMA may not agree.

Sen. Prof. Ramchand: We just need to be consistent with clause 8(2).

Sen. Dumas: Sir, it is my suggestion—if I understand it well, you are deciding on these matters which you run. You are responsible for civil aviation. The Authority will be responsible for deciding on the levels. It is regulating itself. If the Parliament has said that the EMA should take responsibility for those things, why are we abdicating or coming so soon after that and truncating the responsibility of the EMA so as to put it back in the hands of the Civil Aviation Authority?

Sen. Prof. Ramchand: Sen. Lucky, just look at what I am suggesting. We have accepted the [*Inaudible*], so to put approval now in clause 33(6) would be consistent with clause 8(2).

Sen. Lucky: Sorry, Sen. Prof. Ramchand, can you point me to what you are saying first? I am not understanding the first part of what you are saying.

Sen. Prof. Ramchand: Clause 8(2) says that the Authority shall perform its functions, et cetera—[*Interruption*]

Sen. Lucky: Clause 8(2), you mean that was an amendment?

Sen. Prof. Ramchand: Yes. We have got clause 8(2), right?

Sen. King: We already have that.

Sen. Prof. Ramchand: We already have clause 8(2). That has been accepted as an amendment. I am now saying that I do not understand why there are any problems with saying approval in clause 33(6) because we have already conceded that you have to get the approval of the EMA and you have to conform to the Act. That is already conceded.

Sen. King: You should just withdraw that proposed amendment.

Sen. Prof. Ramchand: So it is not a big deal.

Sen. King: Withdraw subclause (6).

Sen. Prof. Ramchand: I do not even see the need for subclause (6).

Sen. King: You do not need subclause (6). Take it out.

Sen. Prof. Ramchand: I do not even see the need for subclause (6).

Sen. John: Hon. Senators, all of these things are governed by the ICAO Convention. They bring out these guidelines after a lot of research. The EMA will not be privy to their research.

Sen. Prof. Ramchand: Well we cannot be governed by secret agents.

Sen. King: They will have to be privy.

Sen. Prof. Ramchand: They will have to provide the information. [*Crosstalk*] Sen. Lucky, I am appealing to your clarity. Withdraw subclause (6) please, “nah”.

Sen. King: Withdraw subclause (6).

Sen. Prof. Ramchand: You know very well—I know you have to conform, but still—[*Interruption*]

Sen. Gillette: Let me take a stab at it and maybe—you talk about the environmental conditions, you talk about disturbance to the public from noise, vibration, atmospheric pollution, et cetera, et cetera. All aircraft, whether it be noise pollution, whether it be vibration, atmospheric pollution, are governed by certain standards in the world—Boeing, Lockheed, McDonnell Douglas—and they fly into different airports. Trinidad happens to be one of them. So I think it is very difficult for the EMA to make a *carte blanche* decision as to, well, “That aircraft cannot fly because it is disturbing at a certain noise level.” The ICAO Convention as well as the Chicago Convention covers the operations of those aircraft. It is very specific there. It is very, very specific.

Sen. King: Why do a consultation?

Sen. John: Do you think it will help if we withdraw the amendment?

Sen. Prof. Ramchand: Well then, if it is so specific, why consult?

Sen. King: Why consult with them at all, then?

Sen. John: Well, if we withdraw clause 33(6), then what went before and was approved will stand.

Sen. King: Exactly, clause 8(2). Clause 8(2) stands in any case.

Sen. Lucky: So clause 8(2) already encompasses what is put in clause 33(6), so we will just withdraw clause 33(6). We thank Sen. Prof. Ramchand for reminding us of that proposal in clause 8(2) that was approved.

Sen. Prof. Ramchand: Thanks.

Sen. Prof. Kenny: Mr. Chairman, before we leave this, if I may help on this, the EMA noise pollution rules were geared to a particular kind of thing and if they were going to make any rules about aircraft noises or train noises, they would use international standards that are applicable.

Mr. Chairman: There is a proposed amendment by Sen. Morean. The Minister has withdrawn her proposed clause 33(6), okay?

Sen. John: Yes.

Amendment withdrawn.

Mr. Chairman: Sen. Morean, you have a proposed amendment?

Sen. Morean: Yes. Mr. Chairman, I beg to move that clause 33 be amended as follows:

Insert after 33(5)(b) the words:

“by requiring the grantee of the licence to obtain the requisite clearance certificate from the Environmental Management Authority”.

My amendment—I thought I just went through it. We are adding at the end of (b) the words, “by requiring the grantee of the licence to obtain the requisite clearance certificate from the Environmental Management Authority.” Of course, I suppose if clause 8(2) is there, then I can withdraw this; make life easy.

Mr. Chairman: So there is no proposed amendment before us now for clause 33.

Amendment withdrawn.

Sen. Morean: Mr. Chairman, there is only one thing, although I did not give it in writing, with respect to subclause (3) of this same clause. Subclause (3) says:

“Regulations made under subsections (1) and (2)(b) shall be subject to negative resolution of Parliament.”

This should really have come in on my question of—[*Interruption*]

Mr. Chairman: Where are you, Senator?

Sen. Morean: I am on clause 33(3). The reason I say this should be affirmative is that, while it is true that they are called “regulations”, these are very substantive regulations that would be made in relation to the setting-up of the Authority for certification of pilots, or airmen as they have said, and we ought to ensure that a certain standard is maintained. So that making regulations under this section, the regulations should be given to debate and be given the widest possible scrutiny by Parliament. Just saying negative, I—[*Interruption*]

Sen. John: I thank the Senator for her contribution, but, Mr. Chairman, we will go without negative resolution.

Sen. Morean: All right, that is agreed.

Mr. Chairman: Hon. Senators clause 33 is to be amended as per amendments circulated by the Minister with respect to 33(1), (k), (n) and (p).

Question put and agreed to.

Clause 33, as amended, ordered to stand part of the Bill.

Clauses 34 to 37 ordered to stand part of the Bill.

Clause 38.

Question proposed, That clause 38 stand part of the Bill.

Mr. Chairman: We have a proposed amendment by the Minister.

10.15 p. m.

Sen. John: Mr. Chairman, for ease of reading, something was missing. I propose the following amendment to clause 38:

Insert the words “in accordance with” after the word “in” in line two.

Question put and agreed to.

Clause 38, as amended, ordered to stand part of the Bill.

Clauses 39 and 40 ordered to stand part of the Bill.

Clause 41.

Question proposed, That clause 41 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by Sen. Montano.

Sen. Montano: Mr. Chairman, I tried to make my explanation during my contribution. I think that Sen. Lucky seemed to understand what I was driving at. I have since drafted the change which I think deals with the matter. I would ask Senators to accept the proposal. I also point out that the word “is” is missing in paragraph (a). That is just a typo.

Mr. Chairman, I propose the following amendment to clause 41(2):

Delete the clause and substitute:

“In the circumstances of subclause (1) the Director General may take steps to prevent the aircraft from being operated or the airman from operating an aircraft.”

Sen. John: Yes, I agree.

Question put and agreed to.

Clause 41, as amended, ordered to stand part of the Bill.

Clauses 42 and 43 ordered to stand part of the Bill.

Clause 44

Question proposed, That clause 44 stand part of the Bill.

Sen. King: Mr. Chairman, I propose the following amendment to clause 44(6):

Re-number as 44(5).

There is no subclause (6) again.

Sen. Lucky: Well, we thank you for pointing it out.

Amendment withdrawn.

Mr. Chairman: We will treat it as typographical.

Question put and agreed to.

Clause 44 ordered to stand part of the Bill.

Clause 45.

Question proposed, That clause 45 stand part of the Bill.

Sen. Dumas: Mr. Chairman, I propose the following amendment to clause 45:

Insert new 45(2)—

“Regulations for restricting the use of lands in the vicinity of airports in Tobago shall be subject to the agreement of the Tobago House of Assembly.”
[*Desk thumping*]

Sen. John: One will not go with approval, but certainly consultation. It would be handing over the power of the Minister. We want to leave it as is. There is a Member of the THA on the board in any case.

Sen. Dumas: Mr. Chairman, we have been sitting and talking about planning and development of land, and we very clearly reserve the responsibility of the Assembly in terms of policy under 11A of the Constitution where we laid out the placement of the THA as a planning authority, giving the THA full responsibility for physical planning and development in the case of Tobago, and reserving that as a proposal.

If we are going to be consistent in terms of Government policy, practices and objectives, it cannot be that another authority would have responsibility for physical planning and development, especially in such a difficult area as the airport and the surrounding areas, in particular, the vicinity of the airport and, in particular, the area of Canaan, Bon Accord which is a growing metropolis in Tobago. I want to suggest that if we are serious, we have to go in there with some reserve, a continuation of the reserve of the rights of the Assembly; continued

responsibility for participation and consultation in terms of the physical development of the island.

Sen. Yetming: We are dealing with the safety of aircraft here. So, if the Authority decides that for the safety of the aircraft they need to put certain restrictions and the Tobago House of Assembly says no—

Sen. Dumas: I thought we are just saying that we had a reasonable—why do we assume—

Sen. Yetming: That is no question of consistency.

Sen. Dumas: Could I say what I am saying? I am saying what I am saying and you are behaving as though there is a “battling” going on. I do not understand that. I am asking whether there are not reasonable people in the House of Assembly, that there are not people who would exercise properly on behalf of the nation, the responsibilities for physical planning and development in Tobago. We have people with the same education, the same sensitivity, the same understanding of our place in the world.

Sen. Lucky: Senator, might I just seek to give you this position and see if this might clarify the point for you? The Fifth Schedule of the THA Act gives the Assembly the right to make policy for planning in Tobago, and it is because of that particular provision that when the Planning and Development of Land Bill came to be debated, that was the reason and justification used to give the THA that Authority which you are referring to. But remember, that is because in that particular schedule the right was given to the THA to deal with planning.

Clause 45(1) is not dealing with planning. It is dealing with the safety of aircraft, and therefore, that is not something within the purview of what was provided for in the schedule. That is the explanation.

Sen. Dumas: I am saying that you are talking about restricting the use of land in the vicinity of airports, and it is in that context that I raise the issue. In fact, the specific requirement is where you are restricting the use of land in the vicinity. That is the context in which I place it. [*Interruption*] Why are we behaving as though this is a war zone?

Sen. John: Mr. Chairman, we will remain consistent with this. We are not changing.

Mr. Chairman: Senator, do you wish to pursue it?

Sen. Dumas: I will leave it on the books, Mr. Chairman. It would be very irresponsible of me not to pursue it, Sir.

Question, on amendment, put.

The committee divided: Ayes 7 Noes 17

AYES

Montano, D.

Yuille-Williams, Mrs. J.

Dumas, R.

Morean, Ms. G.

Kangaloo, Ms. C.

London, J.

McKenzie, Dr. E.

NOES

Gillette, Hon. L.

Yetming, Hon. G.

John, Hon. J.

Lucky, Hon. G.

Phillips, Dr. The Hon. D.

Moonilal, Dr. The Hon. R.

Gopeesingh, Dr. T.

Lasse, Dr. V.

Mark, W.

Ahmed, Mrs. R.

Lambert, J.

Als, M.

Augustus, Hon. R.

Jones-Kernahan, Dr. J.

Cabrera, V.

Daly, M.

Ramchand, Prof. K.

Rev. D. Teelucksingh, Prof. J. Kenny, Mrs. M. King and D. Outridge abstained.

Amendment negatived.

10.30 p.m.

Sen. King: Mr. Chairman, could the wording in the marginal of clause 45 be corrected? It should say:

“in the vicinity of airports...”

Sen. Lucky: Can we put in the “of”?

Mr. Chairman: The marginal notes do not apply. It is just a typographical error.

Question put and agreed to.

Clause 45 ordered to stand part of the Bill.

Clauses 46 and 47 ordered to stand part of the Bill.

Clause 48.

Question proposed, That clause 48 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the Minister.

Sen. John: Mr. Chairman, it is just a typographical error. Delete the word “convection” in line three of subclause (5) and substitute the word “conviction”.

Mr. Chairman: We will treat it as typographical rather than as an amendment.

Question put and agreed to.

Clause 48 ordered to stand part of the Bill.

Clause 49 ordered to stand part of the Bill.

Clause 50.

Question proposed, That clause 50 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the Minister.

Sen. John: Mr. Chairman, I beg to move that clause 50 be amended as follows:

Delete the words “or as” in line two, and substitute the word “a”. [*Crosstalk*]

Mr. Chairman: Rather than treat this as an amendment, I think it is a printing error. So we will treat it as a typographical error. [*Interruption*] [*Crosstalk*]

Question put and agreed to.

Clause 50 ordered to stand part of the Bill.

Mr. Chairman: Okay, if Senators agree we would take clauses 51 to 53 *en bloc* inclusive of Part II.

Hon. Senators: Aye.

Mr. Chairman: The “aye” is in respect of agreeing to do as Part II, all the clauses 51 to 53. So I want to propose now that clauses 51, 52 and 53 stand part of the Bill.

Sen. Prof. Ramchand: So you are now compounding your proposal?

Sen. Daly: Sen. Prof. Ramchand, is your bed wet? [*Laughter*]

Clauses 51 to 56 ordered to stand part of the Bill.

Clause 57.

Question proposed, That clause 57 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by the Minister.

Sen. John: Mr. Chairman, I beg to move that clause 57 be amended as follows:

Delete and substitute the following—

- (1) Notwithstanding any other provisions of this Act, or any Regulation, Rules or Orders made hereunder, the Director General may compound any offence under this Act, by accepting from the person reasonably suspected of having committed such offence, a fine not exceeding forty thousand dollars.

This amendment was just to correct the grammar. The final line should have said, “committed such offences”, it says, “such offence”, so it is just some grammatical smoothing.

Sen. Prof. Ramchand: What does it mean to compound an offence? [Crosstalk] You will tell me afterwards? Is it legalese? To compound an offence. I really would like to know what it means. What is it to compound an offence? “The Director General may compound any offence”.

Sen. King: It has no meaning in the English Language.

Sen. Prof. Ramchand: I have heard about compound interest.

Sen. Lucky: In this instance “may compound” means that instead of going before the court, the Director General is being given a power here. In other words, it becomes almost administrative, like what sometimes the Comptroller of Customs can do. Instead of going before the court, the Comptroller of Customs has a power that is similar, in some instances, where he can impose a fine. That is what it means. [Interruption]

Sen. Prof. Ramchand: Is there not another word?

Sen. Lucky: Well, the word that would normally be used is “compound”.

Sen. Prof. Ramchand: I know if it was on television, they would have said pre-empt.

Sen. Lucky: We will stick with compound. That is what it means.

Sen. Prof. Ramchand: I feel that we could find a better word, but it is late.

Sen. Lucky: Well, can we say that it is legal terminology. [Crosstalk]

Sen. Prof. Ramchand: I am really not happy with the word “compound”.

Sen. King: Nor I.

Sen. Lucky: When that is done in criminal offences Senator, the word is compound.

Question put and agreed to.

Clause 57, as amended, ordered to stand part of the Bill.

Clause 58 ordered to stand part of the Bill.

Clause 59.

Question proposed, That clause 59 stand part of the Bill.

Mr. Chairman: There is a proposed amendment by Sen. Montano.

Sen. Montano: Mr. Chairman, I beg to move that clause 59 be deleted. [Interruption] In light of the explanations I have received, I withdraw my amendment.

Amendment withdrawn.

Question put and agreed to.

Clause 59 ordered to stand part of the Bill.

Clause 60.

Question proposed, That clause 60 stand part of the Bill.

Sen. John: Mr. Chairman, I beg to move that clause 60(1)(b) be amended as follows:

Delete the word “one’s” and substitute the word “the” [Interruption]

Mr. Chairman: We are at clause 60. [Crosstalk] All right; I follow.

Sen. Dumas: Clause 60(1)(c). I would just like to propose that we insert the word “or passenger” after “crew member”. [Crosstalk]

Sen. John: I am responding to Sen. Dumas. It says in (b):

“do any act that threatens the safety of the aircraft or of persons on board the aircraft;”

That covers it. What about in (a) where it says:

“interfere with a crew member;”

So we will put it in (a) and (c). [Crosstalk]

Sen. Lucky: Mr. Chairman, what is 60(1)(b) should really be 60(1)(d). It is in (d). It should read, “intentionally interfere with the” instead of “with one’s”. It was wrongly listed as (b).

Mr. Chairman: We will treat that as a typographical error. So that clause 60 will be amended as follows:

At (1)(a) insert after “or” the word “passenger” and at (c) insert the words “or passenger” at the end of (c).

Is that it? [Crosstalk] So the words “or passenger” comes into (a), (b), (c) and (d)?

Sen. John: No, in (b) and (c). [*Crosstalk*] We will treat that as a typographical error. [*Crosstalk*] Hon. Senators, clause 60 is to be amended as follows:

Include the word “passenger” at the end of (a) and include the words “or passenger” at the end of (c).

Question put and agreed to.

Clause 60, as amended, ordered to stand part of the Bill.

Clause 61 ordered to stand part of the Bill.

Clause 62.

Question proposed, That clause 62 stand part of the Bill.

Sen. John: Mr. Chairman, I beg to move that clause 62 be amended as follows:

Delete subclause (3) and substitute the following:

- (3) The provision of Part XIX of the Shipping Act shall apply *mutatis mutandis* to the provisions of this section.

Mr. Chairman, again, we had typographical errors and we want to just do some smoothing here to make it read:

“The provision of Part XIX of the Shipping Act shall apply *mutatis mutandis* to the provisions of this section.”

So we are taking it in its entirety.

Mr. Chairman: Is that okay? The Minister has proposed an amendment at 62(3).

Sen. Prof. Ramchand: I have no quarrel, but I feel the words “*mutatis mutandis*” should not be used. But I am not quarrelling.

Sen. Prof. Kenny: What does “*mutatis mutandis*” mean?

Sen. John: The whole thing; in full accordance. Other than that we have to list all the provisions.

Sen. Prof. Ramchand: In every respect or with suitable adjustments or what? Why not use the words, “with suitable adjustments”? [*Crosstalk*] The lawyers do not know what “*mutatis mutandis*” means.

Sen. John: It is a legal document, so you have to use the language of the trade. How will Sen. Morean then interpret it when she goes to court? She knows what this means. I did not know, but I was told.

Sen. Prof. Ramchand: Many of the phrases Sen. Mark uses I feel he does not know the meaning of them. [*Laughter*] [*Crosstalk*]

Mr. Chairman: Okay, let us move on please.

Question put and agreed to.

Clause 62, as amended, ordered to stand part of the Bill.

Mr. Chairman: Hon. Senators, we will do the remaining clauses *en bloc*.

Clauses 63 to 72 ordered to stand part of the Bill.

10.45 p.m.

First schedule.

Question proposed, That the first Schedule stand part of the Bill.

Sen. John: Mr. Chairman, I propose the amendment of paragraph 2(7) as follows:

Delete the marginal note and delete the word "Commission" occurring in line 1 and substitute the word "Board".

In this Bill we did not establish a commission, we established a board.

In paragraph 3(1), in the marginal note, insert the words "of the Board" and delete the same words occurring in lines one and two.

Although Sen. Lucky is telling me that the marginal notes are not really substantial.

On page 41, in paragraph 3(3):

- A. Insert the word "may" after the word "appointment" occurring in line three.
- B. Delete paragraphs (a) and (b) thereunder.

Mr. Chairman: "The President may appoint a suitably qualified person to..."

Sen. Lucky: Those three words "of the Board" are deleted. They were meant for the margin.

Mr. Chairman: Just before that, paragraph (8) does not read right. All right, it is typographical. Any other proposed amendments?

Sen. Lucky: Mr. Chairman, it should read "...or a member's appointment is terminated."

Mr. Chairman: The First Schedule would be amended as proposed by the Minister; in addition at clause 2(8) in line 2, insert the word "appointment" after the word "member's".

Question put and agreed to.

First Schedule, as amended, ordered to stand part of the Bill.

Second Schedule ordered to stand part of the Bill.

Third Schedule ordered to stand part of the Bill.

Fourth Schedule ordered to stand part of the Bill.

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

Senate resumed.

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

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, first of all let me congratulate Sen. Outridge on his maiden contribution, on his maiden appearance.

Second, we would not be sitting tomorrow, although last week I did say that we would be.

Mr. President: Sen. Gillette, I think there is need for a procedural motion for the discharge of the Air Navigation Bill.

PROCEDURAL MOTION

The Minister of Energy and Energy Industries (Sen. The Hon. Lindsay Gillette): Mr. President, having regard to the decision of the Senate, I now move that the order for the second reading of the Air Navigation Bill 2001, listed as item 4 on the Order Paper, under "Government Business, Bills Second Reading" be discharged.

Question put and agreed to.

Adjournment

Wednesday, June 20, 2001

ADJOURNMENT

Sen. The Hon. L. Gillette: Next week is Private Members' Day, but having consulted the Leader of the Opposition and the Leader of the Independent Benches, we would first start with a Bill to amend the Immigration (Caribbean Community Skilled Nationals) Act, 1996.

I beg to move that the Senate do now adjourn to Tuesday, June 26, 2001 at 1.30 p.m.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 10.55 p.m.