SENATE

Tuesday, May 27, 2003

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence to the following Senators from today's sitting, Sen. The Hon. Conrad Enill and Sen. The Hon. Dr. Lenny Saith.

SENATOR'S APPOINTMENT

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

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency GEORGE MAXWELL RICHARDS, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MRS. MAGNA WILLIAMS-SMITH

WHEREAS Senator Conrad Enill is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MAGNA WILLIAMS-SMITH, to be temporarily a member of the Senate with effect from 27th May, 2003 and continuing during the absence from Trinidad and Tobago of the said Senator Conrad Enill.

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 23rd day of May, 2003."

Madam President: Hon. Senators are required to take the Oath, however, I must seek the permission of the Senate to revisit this section when the instrument arrives for one of the persons who is supposed to take the Oath, which is not here as yet. Do I have the permission of the Senate to so do?

Assent indicated.

OATH OF ALLEGIANCE

Sen. Magna Williams-Smith took and subscribed the Oath of Allegiance as required by law.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the North West Regional Health Authority for the year ended December 31, 1995. [*The Minister of Community Development and Gender Affairs* (*Sen. The Hon. Joan Yuille-Williams)*]

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, 1997. [*Sen. The Hon. J. Yuille-Williams*]

3. The Value Added Tax Order, 2003. [*Sen. The Hon. J. Yuille-Williams*]

4. Report of the committee appointed by Cabinet to review the financial sector of Trinidad and Tobago—a Green Paper. [*Sen. The Hon. J. Yuille-Williams*]

5. Annual audited financial statements of Petroleum Company of Trinidad and Tobago Limited for the financial years ended September 30, 2000 and 2001. [*Sen. The Hon. J. Yuille-Williams*]

6. Report of the Princes Town Regional Corporation for the financial year October 01, 2000 to September 30, 2001. [*Sen. The Hon. J. Yuille-Williams*]

7. Report of the Princes Town Regional Corporation for the financial year October 01, 2001 to September 30, 2002. [*Sen. The Hon. J. Yuille-Williams*]

Extradition (Kingdom of the Netherlands) Order, 2003

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): I wish to inform Senators that the Statutory Instruments Committee met and considered the Order. The Minutes were circulated to Senators.

8. The Extradition (The Kingdom of the Netherlands) Order, 2003. [*The Minister of Foreign Affairs* (*Sen. The Hon. Knowlson Gift*)]

The Minister of Foreign Affairs (Sen. The Hon. Knowlson Gift): Madam President, the Statutory Instruments Committee met this morning and after consideration of the Order, the Committee decided that there was nothing in the Order to which the attention of the Senate should be specially drawn, in accordance with Standing Order No. 68(1).

Thank you.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I have now received the instruments for the appointment of the Senator, therefore we will revisit Item No. 3 on the Order Paper.

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency GEORGE MAXWELL RICHARDS, President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MRS. JOAN HACKSHAW-MARSLIN

WHEREAS Senator Dr. Lenny Saith is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOAN HACKSHAW-MARSLIN, to be temporarily a member of the Senate with immediate effect and continuing during the period of illness of the said Senator Dr. Lenny Saith.

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 27th day of May, 2003."

OATH OF ALLEGIANCE

Sen. Joan Hackshaw-Marslin took and subscribed the Oath of Allegiance as required by law.

ORAL ANSWERS TO QUESTIONS

Technical Task Force (Relocation of Parliament)

49. Sen. Wade Mark asked the hon. Minister of Public Administration and Information:

(a) Could the Minister provide this Senate with copies of the report of the Technical Task Force on the relocation of the Parliament?

(b) Could the Minister give details on:

(i) The names, professions and qualifications of the members comprising the Technical Task Force?

(ii) The terms of reference of the Technical Task Force?

(iii) The date on which the Technical Task Force was established?

(iv) The date on which the Technical Task Force submitted its final report?

(c) Could the Minister state whether the report of the Technical Task Force was ever tabled in Parliament?

(i) If the answer is in the affirmative, could he state whether the same report would be fully and comprehensively debated?

(ii) If the answer is in the negative could he explain why this report was never laid?

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, in response to part (a) of the question, a Technical Task Force was not set up to deal, specifically, with the relocation of the Parliament. Consequently, there is no report to submit to this honourable Senate. Madam President, parts (b) and (c) of the question are, therefore, not relevant. However, I wish to advise that in 1992, the Government, in response to the unplanned development which was taking place in the city of Port of Spain, took certain decisions in an effort to develop a city centre with the historic Red House and Woodford Square as its focal point.

The Government held the view that it was necessary to transform the city environment, renew a sense of pride among citizens for their capital, and restore the image of the city. This vision led to the establishment of a City Centre

Redevelopment Project Group comprised of a team of professionals drawn from the Trinidad and Tobago Society of Planners, the National Museum and Art Gallery, the Council for Library and Information Services and the Trinidad and Tobago Institute of Architects.

Sadly, because of frequent changes in the administration, only two of the projects which emanated from the recommendations of this group of professionals, were completed; they are the Brian Lara Promenade and the National Library. The work of the group was coordinated by Mr. Ken Snaggs, a town planning and development consultant.

The Government recognizes that while there is an urgent need to continue the work towards the redevelopment of the city, it is also important to take into account the developments within the Legislature and to revisit its accommodation needs. In this connection, the attention of this honourable Senate is invited to the plans for the restoration of the Red House. The devastation of this prestigious national monument by the events of July 1990 is well documented. Several piecemeal attempts have been made to restore the building, and with the passage of time the need for restoration became more urgent.

In September 1999, the Cabinet took a decision to commence restorative works on the Red House. The project approach and the proposals for the adaptive reuse of the Red House have continued from that time to be the subject of much debate and consultation by the House Committee of the Senate. In fact, I refer specifically to the Minutes of the House Committee of the Senate of March 31, 1999 and I quote:

> "The Chairman then introduced Members to Mrs. Rudlyn Roberts, Architect 11, attached to the Historical Unit of the Ministry of Works and Transport, one of two persons who were invited to attend the meeting to assist Members in their deliberations on the proposed accommodation for the Parliament in the Red House Restoration Proposed Plan. Mr. Joseph Yearwood, Chief Architect, Ministry of Works and Transport, the other person invited, was introduced at a later stage of the meeting, as he was unable to be present from the start of the meeting.
>
> The Chairman informed Members that Cabinet had approved the strategy for the restoration of the Red House, and that the House Committee of the House of Representatives is presently considering the proposed accommodation for the Parliament in the proposed plan, which was prepared by the Ministry of Works. He also informed Members that the House

Committee of the House of Representatives has suggested amendments to the proposed plan submitted by the Ministry of Works. He further informed Members that the purpose of the day's meeting was for Members to deliberate on the matter before meeting with the House Committee of the House of Representatives for further deliberations.

Mrs. Rudlyn Roberts gave the Members an overview of the type of research that was done before the proposed plan was prepared.

During its deliberations, Mr. Wade Mark expressed concern with respect to the number of persons the proposed Committee Rooms would accommodate in view of the fact that the Government is presently making plans to improve the Committee System and make meetings open to the public with media coverage.

The Committee was of the view that while provision for seating accommodation in the Chamber for 40 Members of the House of Representatives is now adequate, steps should be taken to ensure that ground space is reserved for additional seating accommodation for Members in case there is an increase in electoral boundaries.

Mr. Wade Mark expressed concern with respect to the size of the public gallery, which from all appearances would seat fewer persons. He felt that in keeping with Government's policy of open government, seating for the public should not be reduced. If however it is reduced, he expressed the view that proceedings of Parliament should be broadcast live.

Mr. Joseph Yearwood suggested incorporating in the plan an underground public gallery with close circuit television.

Professor John Spence was of the view that a separate cafeteria should be provided for Members of Parliament and that more space should be provided for the Library. He also felt that accommodation should be provided for research assistants to Members of Parliament. He suggested that some additional space could be obtained if a basement is included in the plan.

Mr. Wade Mark expressed concern with respect to the security of Parliament. He felt that provision should be made for the scrutiny and control of the flow of vehicles and persons in and out of the building.

Professor John Spence suggested that provision should be made for speakers to be placed in the washroom for Members of Parliament. He also felt that speakers should be installed in the washroom facilities now used by Members.

Mr. Wade Mark expressed the view that space should be earmarked for the Trinidad and Tobago Parliament to operate its own television station.

Professor Spence suggested that lockers should be provided for each Member of Parliament."

Madam President, I have quoted at length from these minutes in an effort to demonstrate the simple philosophy that our country deserves to have appropriate accommodation for its Parliament. The accommodation must take into account the need for a modern institution for organized, good governance.

The Government had reviewed the plans for the restoration of the Red House and is of the opinion that it is appropriate for the country to be endowed with a Parliament, which is supportive of the vision for developed country status by 2020. A democratic system of government to support such a vision will require a Parliament with expanded functions; such functions necessitating increased consultation with stakeholders and a further move towards the use of committees in Parliament. As a result, there will be need for increased working space for both Members and Parliament and their support staff.

Madam President, at this preliminary stage, UDeCOTT has been requested to prepare a user brief for a new Parliament building in consultation with the committees of the Legislature and the Senate. This is the current status of this project. The team of technical experts who would distil the views obtained from the consultative process and develop proposals to move the project to the next phase has not yet been assembled.

The Government wishes to assure this honourable Senate that all stakeholders will be apprised at regular intervals of the developments in this project.

Thank you, Madam President.

Sen. Mark: Madam President, after that long period, let me just ask, through you, whether the Minister is aware that Sen. The Hon. Dr. Lenny Saith, in newspaper reports, did indicate to this country that a technical task force was established, and that the task force did, in fact, submit a report to the Government? Is she aware that Sen. The Hon. Dr. Lenny Saith, the Minister of Public Administration and Information admitted to this country the existence of a technical task force?

Sen. The Hon. J. Yuille-Williams: Madam President, I am not aware of the sentiments expressed by Sen. Wade Mark.

Sen. Mark: Madam President, since the Minister is not aware, could she indicate whether the Government is proceeding to remove the Parliament, even in the face of the Cabinet of Trinidad and Tobago and the Parliament of Trinidad and Tobago, having approved reports that the Parliament should remain at its present location? Is the Government ignoring those reports?

Sen. The Hon. J. Yuille-Williams: Madam President, I think I have given this honourable Senate a detailed statement of the present position of this whole project. As I said in the last paragraph:

> "…all stakeholders will be apprised at regular intervals of the developments…"

Sen. Prof. Ramchand: Madam President, on a point of clarification, through you, can the hon. Minister state whether any of the minutes she quoted carried any semblance of a discussion of removing Parliament from the Red House? Secondly, is she saying that a decision has actually been taken to remove the Parliament from the Red House? Thirdly, is she aware that any action to be taken with regard to accommodation in the Parliament is to be initiated by the Standing Committee of the House, which would submit its recommendations to the Speaker; who would take them to the Cabinet and who would then take them to the Parliament, and that this was the process that was followed when a decision was taken to renovate the Red House and use it exclusively for Parliament?

Sen. The Hon. J. Yuille-Williams: Madam President, let me just sum up what you said by reading a part of my statement.

> "I have quoted at length from these Minutes in an effort to demonstrate the simple philosophy that our country deserves to have appropriate accommodation for its Parliament."

I think that is the response to all that you have asked about why—

Sen. Prof. Ramchand: No, Madam President, the question was— [*Interruption*]

Madam President: One Senator at a time, please. The Minister was replying.

Sen. The Hon. J. Yuille-Williams: Madam President, I was of the view that you had asked—What was your first question? There were so many of them.

Sen. Prof. Ramchand: The question was whether any of the minutes quoted dealt with any suggestion or proposal to remove the Parliament from the Red House?

Sen. The Hon. J. Yuille-Williams: No, Madam President.

Madam President: No? There was no dealing with that. Sen. Dumas, did you want to say something?

Sen. Dumas: Madam President, on a point of order. Our questioning is governed by Standing Order No. 17(1). I just want to draw your attention to Standing Order No. 17(1)(e) and (g) and to suggest that we are violating the very rules we operate by.

Madam President: Hon. Senators, could we move on to question 52?

Sen. Prof. Ramchand: Madam President—

Madam President: Oh, sorry, I thought you got your answers.

Sen. Prof. Ramchand: I asked three supplemental questions. If there is a question as to whether Standing Order No. 17(1)(g) applies; if it is being said that the answers have been given and therefore I cannot ask the questions again, I will be so guided but I do not think answers have been given.

Madam President: Hon. Minister, do you want to answer anything, or you do not have the answer?

Sen. The Hon. J. Yuille-Williams: Please, hon. Senator, you have asked three questions, let me be quite honest; I cannot remember what is the second question.

Sen. Prof. Ramchand: Madam President, may I repeat the questions one by one?

Madam President: From the second question.

Sen. Prof. Ramchand: The second question is, is the hon. Minister telling us that a decision has been taken to remove the Parliament from the Red House?

Sen. The Hon. J. Yuille-Williams: No, Madam President.

Madam President: No. Okay. I think she answered the third question already. [*Interruption*]

Sen. Prof. Ramchand: The third one, Madam President, was whether the hon. Minister is aware that there is a process to be followed and that the current renovations are being done as a result of that process having been followed and a unanimous decision of Parliament having been taken to carry out the renovations with a view to making the Red House available exclusively for the use of Parliament?

Sen. The Hon. J. Yuille-Williams: Hon. Senator, the question, again, has gone very long and I think I would take it up from where you started. If I could remember quite recently, when Sen. The Hon. Dr. Lenny Saith stood here, he did say that he is aware of the process that was followed and he gave this honourable House the assurance that he would follow the correct procedures.

Madam President: All right, could we move on to question No. 52, please?

CEPEP Contracts (Award of)

52. Sen. Wade Mark asked the hon. Minister of Public Utilities and the Environment:

> Could the Minister provide to this Senate the set of criteria used by the Solid Waste Management Company in awarding contracts to persons, companies and/or contractors engaged by the Community-based Environmental Protection and Enhancement Programme (CEPEP)?

The Minister of Public Utilities and the Environment (Sen. The Hon. Rennie Dumas): Madam President, SWMCOL has advised that the selection of contractors followed the following process:

1. An advertisement in local newspapers.
2. A review and selection of suitable applicants who responded to the advertisement.
3. Interview of the applicants using written and verbal formats.
4. Assessment of the most suitable candidates and a recommended short list.
5. A review exercise of the first assessment and a final listing prepared and submitted for approval.

The criteria used in the awarding of contracts to applicants included:

1. Financial capability.
2. Employment capability.
3. Management capability.
4. Formal and informal, that is hands on experience in business and personnel management.
5. Work experience of the applicants.

The selection or ranking procedures or guidelines used were as follows: A rank was assigned to each category or criterion based on the documentation provided by the contractor as per the Contractor Selection Guide, the contractor's application and an assessment of any further information provided on the category during the interview session; the information provided on the application forms plus documentary evidence gained, including a bank reference letter, where financial matters were concerned, for the qualification question and financial capability as required for selection.

Further, the ranking system was exercised in such a way that where funds were on hand and documentary evidence was provided, these were given a rank of 10. They received a rank of 6—9 where statements, re: funds on hand or could be accessed through commercial facilities, were available. A rank of 1—5 was given where statements re: funds accessible from family or other non-commercial sources were available. With respect to the question of employment capability, a rank of 11—15, was given where you had a good action plan for employment of community members supported by community involvement and demonstrated access to potential employees. A rank of 6—10 was given where you had an acceptable action plan for employment of community members, supported by community involvement or demonstrated access to potential employees that were of less order than the perfect rank. Where you had a limited action plan for employment of community members, the rank was from 1—5.

Where you had a good business management plan supported by resource organizational structure and direct operational involvement by owners or directors a rank of 11—15 was given. A rank of 6—10 was given where you had an acceptable business management plan supported by organizational structure. A rank of 1—5 was given where you had a limited business management plan.

Where you had formal and educational training, ranks of 21—25 were given where that was extensive; good, from 16—20; acceptable, from 11—15; limited, from 6—10; and very limited, from 1—5. Work experience: extensive, from 21—25; good, from 16—20; acceptable, from 11—15; limited, from 6—10. Finally, General Assessment, this is information provided on the interview of the evaluation where it was considered good, from 6—10 and acceptable, from 1—5.

Interviewers were also required to provide any significant comments about the interviewee or the interview that affected the ranking given. It is to be noted that the intention was not to hire only established firms but to also provide opportunities for people who could develop into business entrepreneurs.

Thank you, Madam President.

CEPEP
(Companies/Contractors Selection)

53. Sen. Wade Mark asked the hon. Minister of Public Utilities and the Environment:

Could the Minister inform this Senate of:

(i) the number of persons;

(ii) their names and professions; and

(iii) their qualifications and experience who comprise the panel established by the Solid Waste Management Company to select the companies/contractors for the Community-based Environmental Protection and Enhancement Programme (CEPEP)?

The Minister of Public Utilities and the Environment (Sen. The Hon. Rennie Dumas): Madam President, the Solid Waste Management Company Limited (SWMCOL) has advised that six persons made up the panel for the selection of contractors for the award of CEPEP contracts. Two of SWMCOL's employees and two contracted consultants were utilized for short-listing applicants. Two senior SWMCOL employees joined the panel for the final selection. The panel is as follows:

Position	**Profession**	**Qualifications**	**Experience**
Project Officer Support Services at SWMCOL	Business Administrator	Masters in Business Administration	Over 15 years senior management experience
Internal Audit Officer at SWMCOL	Accountant	ACCA level 3	Over 8 years management accounting experience
Manager of Projects at SWMCOL	Engineer and Project Manager	BSc Civil Engineering and Project Management Certification	Over 12 years middle to senior management experience
Executive Chairman at SWMCOL	HR Professional Organizational and Development Specialist	Masters in Business Administration	Over 15 years senior management experience

Position	Profession	Qualifications	Experience
Two contracted Consultants	1. Management Consultant	BSc Commerce, Post Graduate qualifications	Over 20 years in marketing operations Research Business Planning and Information Technology
	2. Event Management Specialist	Extensive training in Stategic Planning, Marketing and Sales Management	Over 20 years in the Import Retail Distribution and Broadcasting Industries

Sen. R. Montano: Madam President, the question quite clearly states: Could the Minister please give the names of all of these persons? I did not hear one name called. Would the Minister kindly give the names of all of these persons that he called, and say who is who? Answer the question!

Sen. The Hon. R. Dumas: Madam President, the Government has noticed the request for the names. The Government is not mindful of giving the names, given the demonstrated vilification of this programme and its activities demonstrated by the Opposition throughout the country. The danger we face is that the individuals could become targets—and not in their public functions. We are asking this Senate to accept the identification of these people by positions in the public functions, in the public organization.

Sen. Mark: Madam President, I think this is a very strange course that we are taking. We have asked specifically, in the highest court of the land, for the names. What the hon. Minister has given to us is simply their positions but we specifically asked for the names. [*Sen. The Hon. R. Dumas stands*] Madam President, both of us cannot stand at the same time. I am still on my legs. The question here is, could the hon. Minister provide to this Parliament the names of those persons?

Sen. The Hon. R. Dumas: Madam President, we have noticed the rule and contents of questions and if we draw attention to Standing Order No. 17(1)(b), I

want to suggest to this Senate that there is a very good reason for that rule. That rule is laid into the question to avoid the exposure of individuals to possible and unforeseen circumstances or foreseeable activities. I want to ask for the support of this Senate that the names of these people be substituted by their public functions in these organizations.

Sen. Mark: Madam President, I think that this is a very serious matter and we would need your ruling. We cannot have a Minister or a Cabinet covering up, in cases of clear acts of corruption. They are refusing to give the names—

Sen. The Hon. R. Dumas: Madam President, on a point of order.

Sen. Mark: No, I am on my legs, Madam President.

Madam President: He is on a point of order, Senator.

Sen. The Hon. R. Dumas: Madam President, it is clear that the Senator is imputing motives to myself as I am sitting in the Senate. He is suggesting that there is corruption and cover-up of corruption by raising the question that I have raised.

Sen. Mark: Answer the question I have asked. Madam President, I think I need your ruling on this matter.

Sen. The Hon. R. Dumas: Madam President—

Madam President: Two Senators cannot be on their feet at the same time. [*Sen. Mark takes his seat*]

Sen. The Hon. R. Dumas: Madam President, the contents of the question suggest that a question shall not include the names of persons or any statement of fact unless they may be necessary to render the question intelligible. I want to suggest that the answers carry the same requirement.

Sen. Seetahal: No, no, no.

Madam President: Hon. Senators, I would like to think about this and maybe when I come back next week I will make a ruling on it; if this is all right with the Senate. I will have to look at this and maybe look at the Standing Order and discuss it. I do not want to give a ruling at this time that would impinge on other questions as they come up.

Sen. Mark: Madam President, as you would know, over time we have had the names of persons announced here when questions are asked. We have had the Attorney General providing names of all the firms that—So we find it very

strange that the hon. Minister would come to this Parliament and seek to embarrass this entire Parliament and to put the President of the Senate in a compromising position because the Minister—

Sen. The Hon. R. Dumas: Madam President, again, the Senator is inferring motive. [*Interruption*]

Sen. Mark: Madam President, I think this matter is so serious that I would like, with your leave, to put it to the Senate because what the Government is attempting to do is to cover up. We are saying, through you, Madam President, that the Minister has a duty and a responsibility to provide to this Senate, the highest court of the land, the names of those people. They are receiving taxpayers' dollars and I cannot agree with his attempt, at this time, to cover up this. I would like, Madam President, through you, to put this matter to a vote.

Sen. Morean: Madam President, I thought you had ruled that you would study the matter and rule next week.

Madam President: That is what I was about to say, that I have already ruled that we will study the matter and I will give my ruling next week. Can we move on, please?

Sen. Mark: Madam President, I accept that you would rule on this matter and that, for instance, next week, based on your ruling, we should get the answers from the Minister.

ARRANGEMENT OF BUSINESS

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, I seek leave of the Senate to deal with Government Business instead of Private Business.

Question put and agreed to.

JOINT SELECT COMMITTEE AND PUBLIC ACCOUNTS COMMITTEE
(Appointment to)

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, I beg to move the Motion standing in my name:

BE IT RESOLVED that this Senate appoint Mr. Danny Montano to replace Mr. Conrad Enill on the following committees:

1. The Joint Select Committee appointed to report on Government Ministries (PART I) Statutory Authorities and State Enterprises falling under those ministries.

2. The Public Accounts Committee.

Question proposed.

Question put and agreed to.

Resolved:

That this Senate appoint Mr. Danny Montano to replace Mr. Conrad Enill on the following committees:

1. The Joint Select Committee appointed to report on Government Ministries (PART I) Statutory Authorities and State Enterprises falling under those ministries.
3. The Public Accounts Committee.

CIVIL AVIATION (AMDT.) BILL

Order for second reading read.

The Minister of Works and Transport (Hon. Franklin Khan): Madam President, I beg to move,

That the Bill to amend the Civil Aviation Act, No. 11 of 2001 be now read a second time.

I pause to see if there will be any explosion before I start. [*Laughter*]

Madam President, it is always a pleasure for me to come to the Upper House to pilot a bill and to take part in debates. The purpose of this Bill is really to modernize the legislative infrastructure for the civil aviation industry here in Trinidad and Tobago. By this I mean that we need an autonomous and functioning civil aviation authority that is properly staffed; well trained; adequately funded; independent and autonomous from political interference and from funding constraints and restraints; that is totally compliant with International Civil Aviation Organization (ICAO) and Federal Aviation Administration (FAA) regulations and requirements.

This Bill is fundamental to our thrust forward in the civil aviation and to the civil aviation industry. What it would do, in the act of bringing an autonomous civil aviation authority into being and functioning—which is the required regulation, 13 of them—would really move Trinidad and Tobago back into Category 1 status. As you are aware, Madam President, we were downgraded in 1999. This legislation would really put the legislative infrastructure in place, as I have mentioned, so that we can proceed with the economic development of Trinidad and Tobago.

Madam President, the civil aviation industry has been going through some trying times recently. The industry was shaken, for want of a better word, into a deep sense of reality and change by the events of 9/11 about two years ago. That has had a significant negative impact on civil aviation and civil transportation by air throughout the world to its concomitant impact on trade and commerce. Coming closely on the heels of that has been the Iraq war, again, impacting negatively on air transportation in terms of volume of lift and, again, its negative impact on trade and commerce. It is as if this industry has been going through its own graah, to use a Hindi word, and following the Iraq war we have had the SARS scare. Again the SARS, especially in South-east Asia is having significant negative impact on the civil aviation industry. Even in the last couple of weeks there have been increasing acts of terrorism, especially in the Middle Eastern areas.

In that global picture the collective effect of what we have been seeing in the last two to two and a half years is a major upheaval in the civil aviation industry and that is having a negative impact on the industry. In that negative impact we have seen that some of the top airlines in the world have gone under, American Airlines barely survived recently; Delta Airlines has gone into Chapter 11 bankruptcy; even the Flagship Airlines of South-east Asia which is Singapore, Thailand, Hong Kong—and some of these airlines had been doing extremely well—have all been experiencing significant financial problems.

The industry in itself has had to react and readjust itself to face the new modern environment of the world, as we speak. To understand civil aviation, I think we should probably step back a minute. It was 100 years ago, in 1903, that the Wright brothers had the first powered air flight and in that 100 years the world has seen a phenomenal growth in civil aviation. Civil aviation, probably more than anything else, has really been the catalyst of global economic expansion, especially after World War II. Civil aviation and today's telecommunication boom have been the two facets that have really brought the global village into a reality. It is important—and there is an urgent need for us to provide a regulatory framework for the safe, orderly, and efficient growth and development of this sector.

I want to share a few statistics with this honourable Senate, through you, Madam President. When the International Civil Aviation Organization (ICAO) came into existence in 1947, air transport played a very small part in the world economy. In 1947, only nine million passengers travelled by the air, equivalent to less than one half of one per cent of the world's population at the time. At that

time also, Madam President, airfreight was insignificant to world trade. In 2001, a mere 55 years after the creation of ICAO, 781 scheduled airlines operating 20,771 commercial aircraft, within a network of some 14,000 aerodromes worldwide, transported 1.6 billion passengers during the year 2001. I have just quoted these statistics to give you the magnitude of the civil aviation expansion since World War II.

Madam President, in comprehending and understanding this legislation I just want to, again, give a short discourse on an organization that is fundamental to our legislation in civil aviation, which is called the International Civil Aviation Organization (ICAO). The Convention on International Civil Aviation was signed in Chicago on December 07, 1944. It established certain principles and arrangements in order that International Civil Aviation may be developed in a safe and orderly manner and that international air transport service may be established on the basis of equality of opportunity and operated soundly and economically.

The Convention formed what was the International Civil Aviation Organization (ICAO) with the aims and objectives to develop, and I quote:

> "The principles and techniques of international air navigation and to foster the planning and development of international air transport."

These are some very unique statistics again. The Convention came into effect upon ratification by 26 states on April 04, 1947. By the end of 2000, it had been ratified by 186 states making the ICAO legislation the world's most widely accepted international law instrument. It tells you the international stand of civil aviation. It is the world's most widely accepted international law. As a contracting state of ICAO, and as a signatory to the Chicago Convention, Trinidad and Tobago is required to properly discharge its obligation under the Convention, including the adoption of the standards and recommended practices created by the Annexes of this Convention. Madam President, this is what this legislation is seeking to do; to comply with international regulations to which Trinidad and Tobago is a party and signatory. The Chicago Convention and Annexes define the principle, standards and techniques of air transport so as to ensure safe and orderly growth of international civil aviation throughout the world. These obligations include ensuring that the minimum safety standards meet the requirements of the Annexes in respect of the following. I will read them:

> Personnel licensing, aircraft operations, airworthiness, airports, navigation aids, charting and instrument approach minima, weather reporting, air traffic services, search and rescue, aviation security and safe transport of dangerous works.

Madam President, as the industry continued to unfold and as the industry started to modernize itself, up until 1995, Trinidad and Tobago's primary aviation regulation instrument was the Colonial Air Navigation Order of 1961, supported by an array of United Kingdom Civil Aviation Authority guidelines publication referred to as Civil Aviation Publications and British Civil Airworthiness requirements.

In mid-1991 the United States Federal Aviation Administration (USFAA) began to formulate a programme to address concerns regarding effectiveness of foreign airlines operating in the United States to adhere to international safety standards and recommended practices for aircraft operations and maintenance established by ICAO. What this says, Madam President, is that the United States especially, became very concerned about standards and safety in civil aviation as it relates—they can only speak for themselves so they did not want a plane that was poorly serviced or had poor checks, for whatever reasons, coming into the United States and risking the United States airspace, as it were, with any major catastrophe or accident. As we say civil aviation, we mean international business—you are flying from A to B and from B to C; so if you fly from A to B to C, even though you are living in C, what is happening in A has to be your concern and vice versa. Again, it is an integrated system for which we have international legislation and international law and it is incumbent on member States, which are signatories to International Conventions as treaty—as the hon. Minister of Foreign Affairs would attest that countries should make every effort to comply with the agreements that we sign in the international arena, and Trinidad and Tobago has a reputation of so doing.

Madam President, the FAA, on a trial basis, visited in 1991, 12 countries with airlines seeking to operate in the United States, in order to assess the country's capability to properly conduct safety oversight responsibilities. It is in that context as the FAA started to expand its ambit of influence, as it were, both the FAA and the ICAO team assessed Trinidad and Tobago, in June 1994 and again in January 1995. The assessment determined that Trinidad and Tobago did not meet the minimum standards of ICAO Annexes 1, 6 and 8, which are really detailed checks as to the safety oversight procedures of the system.

As a consequence, in 1995, Trinidad and Tobago was assessed as a Category 2 country and an action plan was agreed upon to achieve compliance with ICAO Annexes 1, 6 and 8. The FAA reassessed Trinidad and Tobago again in November 1995, February 1996 and November 1996. In February 1997 they came back and restated that there were still outstanding issues on the action plan to be addressed. In October 1999, the ICAO conducted an assessment of Trinidad and Tobago again

and identified several deficiencies in the local safety oversight system as it relates to aviation law, civil aviation organizational structure, adequate qualified personnel and operational certification.

Trinidad and Tobago consequently submitted an action plan outlining the corrective measures for the deficiencies identified. Therefore, in December 1999, the ICAO conducted another assessment pursuant to Assembly Resolution A, 32-11, which authorized ICAO to conduct mandatory safety assessment of states and in accordance with updated Memorandum of Understanding between Trinidad and Tobago and ICAO. The final audit was circulated to 186 countries and basically what this is saying, in a very convoluted way, is what Trinidad and Tobago did to meet the requirements. Part of the requirements, as I mentioned earlier in this debate, was that we have a functional autonomous civil aviation authority with the required regulation and that this authority is staffed with the quality of staff that is internationally recognized and that it has an autonomous budget so that it can conduct its own affairs independent of direct involvement of the State. Madam President, basically, this is what the legislation is attempting to do.

Everybody has been talking about Category 1 and Category 2. A calypsonian sang a calypso about category something else but we will deal with Category 1 and Category 2 as they relate to civil aviation. Category 2 really is a purely bilateral designation between the FAA and Trinidad and Tobago. It does not apply to Europe, the United Kingdom or Latin America. The Americans are saying if you want to fly into the United States these are the conditions with which you must comply. The major negative consequences of Category 2 is that local carriers—by that we mean the designated carrier for the island which is BWIA—would not be granted permission to expand into any new routes or to make any changes of the current schedules. In other words, FAA has to authorize any new routes. If BWIA wants to fly into Boston, Washington or Atlanta, it must be approved by the FAA and once you are Category 2 they would not even contemplate it.

2.30 p.m.

They are so restrictive that if you have to change aircraft tyres or even change your schedule, it must get the concurrence of the Federal Aviation Administration (FAA) in the United States, if you are a Category 2 country. Secondly and more importantly, local carriers will not be entitled to enter into code-sharing arrangements with US carriers. That means that even if you do not fly into some of the interior destinations of the United States, but you can fly into Miami and

New York—which are the hub—and connect into the mid-west and on to the Pacific Coast, you cannot code-share with American Airlines on their reservation system. For example, you cannot go into a joint venture with American Airlines or Continental Airlines so that your airline will come up first when making reservations on the system.

Technically that puts us at a tremendous disadvantage in terms of business travellers; say in the energy sector, who travel to Houston all the time. They can fly Port of Spain/Miami/Houston, but the connection becomes very difficult because there are problems with the code-sharing operations there. A businessman would prefer to fly American Airlines into Miami, connecting to Houston, instead of flying BWIA, with BWIA being able to connect with a first priority into a US carrier. That may sounds simple, Madam President, but we lose tremendous revenue when we find ourselves in a situation like that.

Madam President, permit me the short boring part of this exercise where I would just read to you very quickly the specific amendments. Clause 2 amends section 2 of the Act by expanding the definition of "air operator" to include persons and enterprises in addition to organizations. It amends the definition of "aviation document" to include such other documents as may be approved by the authority and it includes a convention-based definition of commercial air transportation.

Clause 3 amends section 5 of the Act to ensure that the authority may regulate matters relating to aviation documents regarding Trinidad and Tobago aircraft in any part of the world. Clause 4 amends section 7 of the Act thereby empowering the authorities to make prescribed rules and regulations.

Clause 6 amends section 32 of the Act by making specific reference to agreements in subsection (5) and by inserting a fourth schedule including the property and assets held or vested by the former Civil Aviation Division of the Ministry of Works and Transport.

Very importantly, clause 7 amends section 33(3) of the Act, thus making regulations thereunder, subject to negative resolution of Parliament. This ensures that the rule-making process so necessary for the discharge of the authority's responsibilities is not unduly hampered. At the same time, Parliament is given the ability to review the substantive operating regulations governing the operations of the authority, which form a major component of document 8335.

It must be noted that both the Federal Aviation Administration (FAA) and the International Civil Aviation Organization (ICAO) requirements regarding the

making of regulations stress the prominent role of the Executive arm of Government in the process. Therefore, unless section 33(3) is amended, Trinidad and Tobago cannot be upgraded to Category 1 status.

There are 13 regulations that have been drafted and should be completed in the coming weeks. They are as follows:

1. General
2. Personal licensing
3. Aviation training organizations
4. Aircraft registration and marking
5. Airworthiness
6. Approved maintenance organizations
7. Instruments and equipment
8. Operations
9. Air operators certification
10. Foreign air operators
11. Aerial work
12. Aviation security
13. Aerodrome certification

Clause 8 amends the Act further with the addition of two new sections. Section 33A allows the Director General of Civil Aviation to prescribe impending standards in respect of regulations under the Act. Section 33B allows the Director General to make emergency regulations and rules in situations where it is expedient to do so and to make provision for their publication.

Section 33C, as an adjunct to 33B, empowers the Minister, within a prescribed period, to amend or revoke or approve emergency regulations and rules that were made by the Director General.

Sections 33B and 33C should have the co-joint effect of facilitating immediate action where it is required to preserve the safety of aviation. For example, after September 11, certain areas of Trinidad and Tobago had been immediately declared a “no-fly zone”. This says that, in the event of a major disaster at Piarco—God forbid—the Director General of Civil Aviation will be empowered

to make emergency regulations, which will be vetted by the Minister later on. This pulls back the political interference—going to Ministers all the time to find out what to do. The Director General will make these regulations on behalf of the Civil Aviation Authority.

Clause 9 of the Bill amends section 34. Clause 10 clarifies section 37. Clause 11 is a consequential amendment arising out of the new schedule. Clause 12 amends section 54(1) of the Act. Clause 13 amends section 69(3) of the Act. Clause 14 of the Bill inserts a new section 71.

I have attempted to show the basis on which civil aviation has its *raison d'être* in the modern economy. I have attempted to show the historical evolution of this industry and the regulations, both nationally and internationally, that have governed it and built the templates to form the basis why the Government comes with these amendments to comply with these international requirements to which we are a signatory.

Before I wrap up, it will be remiss of me not to mention a few things in civil aviation. While civil aviation is not *sensu stricto* to an airport, it has to do with aerodromes and this is the ideal opportunity to bring to your attention some of the issues I feel very peeved about as a citizen of this country.

We are Category 2 because—nobody might believe that I do not like to talk about the Opposition too much, but sometimes it is necessary—we have gone through an experience where we have spent $1.6 billion on an airport terminal building and yet we have an aviation infrastructure that does not meet international standards. While the aviation infrastructure is partly aerodrome, partly legislation, partly staffing, partly equipment, we see—let me quote some examples—that the Civil Aviation Authority is in dire need of basic equipment.

Only two weeks ago, through the Ministry of Works and Transport, we ordered through ICAO, high frequency systems to the tune of $9 million, to communicate with aircraft within Piarco-controlled air space. The Piarco air traffic control system is responsible for 750,000 square miles of air space. Our air space extends as far north as Antigua; south of Trinidad to Guyana and halfway into the Atlantic, 100 miles west of Trinidad and Tobago.

We are also in need of an Aeronautical Fixed Telecommunications Network (AFTN) system, a telecommunication system. The purpose of this would be to send messages within the Piarco flight information region, general air messages, ICAO flight plans, departure records, delay records and so on. It connects with all air traffic control centres within the Caribbean, Caracas and Atlanta and it transmits weather reports. We have, only this week, ordered the equipment through ICAO. It is such sophisticated equipment that we did not tender through

the Central Tenders Board. There is an agreement with ICAO that they source this equipment because they have the expertise to scan the market to make sure that we buy the proper equipment at a proper price.

This equipment will cost $6 million—$6 million compared with $1.6 billion where today we cannot communicate properly with flights coming into Trinidad. Madam President, I know you travel a lot—I met you in the VIP lounge. Do you know it cost $11 million to furnish? I am not talking about the Tobago terminal; that must have cost about $5 million. The VIP lounge at Piarco cost the taxpayers of Trinidad and Tobago $11 million. They went to New York and bought furniture. We are saying that for $6 million they could have bought the telecommunication equipment. We will still need $75 million in the next few years for an Instrument Landing System (ILS) for Trinidad and Tobago, navigation aids, very high frequency (VHF) transmitters and receivers for Piarco and other pieces of radio equipment; an anemometer, which is for wind and speed direction, and several other pieces of equipment because the present equipment inventory at the Civil Aviation Authority is very old and parts are becoming increasingly unavailable.

I bought this because I feel it is worth making the point. We tend to look at the wrong things in this country and sometimes, as politicians, we "grandiose" ourselves saying we did this and that and we built this and that. We do not spend the money where the country needs it—in the strategic areas where it can have the greatest impact on civil society and in the development of the country that we claim to love so much.

Sen. Prof. Ramchand: Could the hon. Minister clarify whether the evils he has just described were part of the reason for the downgrading?

Hon. F. Khan: Madam President, they were not specifically part of the reason. The downgrading had to do largely with legislative infrastructure. When we take an industry, we take it in its entirety. We need legislation; we need regulations; we need plant and equipment and we need human resource. If I were asked to invest $1 billion today in civil aviation, Trinidad and Tobago would be second to none. We have spent $1.6 billion and we do not even have a good terminal building.

With the fear of being ruled irrelevant, I was making the point to link it back to civil aviation to show that we can spend so much in one aspect of the economy and still not have it right, so that the international community does not recognize us as a First World player.

In closing, the passage of this Bill, to me, is arguably the most critical element of an overall action plan that was first agreed between the FAA and the Government of

Trinidad and Tobago in June 2001. Further components of the plan shall include the promulgation of a comprehensive code of regulations to be known as the Trinidad and Tobago Civil Aviation Regulations and the passage of the amendment to section 33(3) of the Act will greatly assist in the eventual publication of these codes.

There is currently a transfer of air traffic controllers and telecommunication staff, which is crucial to the realization of the above exercise, from the Civil Aviation Division to the Civil Aviation Authority. I did not dwell on it but I guess speakers will speak on that later on. We have to transfer the staff of the Civil Aviation Division, which is now a division of the Ministry of Works and Transport, into an autonomous civil aviation authority. That transition process has to take place in a smooth and seamless manner. We have to transfer the staff and terms and conditions of work and there are amendments to the legislation in the House of Representatives to grant successorship to the Public Services Association to take this transfer forward.

The transition from the Department of Civil Aviation to the Civil Aviation Authority we see as a prototype for the modernization of the public service in the short term. We have tried with the Regional Health Authorities—which have had their own hitches—but the thinking is that the Government will continue to transform the public service process and the public service work ethics and human resource organizations into greater levels of autonomy so that we can bring it to the level of efficiency that we need.

It is no secret that we will be forming a revenue authority. Jamaica has taken the lead in that regard and today has a functioning revenue authority. There are plans through the Inter-American Development Bank (IDB) requirements in the National Highways Programme—the consultant is Ernst & Young—and ultimately, probably within a year's time, we in the Ministry of Works and Transport will be moving into a roads authority where we will be taking major components of the Ministry of Works and Transport and putting them into an authority. The transfer of staff and the rollover of that administrative structure, in my opinion, is fundamental as we try to modernize the public service, which is basically cramped by very antiquated legislation and regulations that have come out of the colonial era and that have very little relevance in a modern economy.

So, Madam President, I have attempted to justify the amendments that the Government proposes and I hope I have done a job that will convince both my peers, Senators on the other side and Independent Senators to support this Bill.

I beg to move.

Question proposed.

Sen. Sadiq Baksh: Madam President, I join the debate on the Bill to amend the Civil Aviation Act, No. 2 of 2001. The Minister started off very well and presented a case for ensuring that we modernize the legislative infrastructure in Trinidad and Tobago to facilitate the development of an aviation fraternity in Trinidad and Tobago. He went very, very well until he was tempted to bring in BWIA and Piarco Airport and its infrastructure into the discussion.

For a while I thought he would have stayed clear of that. In doing that he exploded what would have been very tranquil skies for the aviation sector in Trinidad and Tobago. It is like when the Wright Brothers made their first flight in 1903. A mere 10 years later the tranquil skies of Trinidad and Tobago exploded because of the arrival of Frank Boland and his party of four who landed in Trinidad and Tobago. A mere 13 years after the first flight, aviation started in Trinidad and Tobago.

Madam President, throughout those years we have steadily increased our participation and activities in terms of making Trinidad and Tobago an aviation nation among the world of nations. In fact, during the war we had over 600 planes operating right here in Trinidad and Tobago with a mix of civil and military planes occupying its airspace. When the ICAO came in and set up, by the Chicago Convention, all its annexes in terms of looking at all aviation flight safety worldwide, Trinidad and Tobago was a signatory.

The Minister went on and when the distinguished Independent Senator asked him whether the physical infrastructure had anything to do with the upgrade or downgrade, he did not answer forthrightly by saying that the physical infrastructure in Trinidad and Tobago had nothing to do with Category 1 or 2. Whereas the safety oversight responsibility must be set in place in terms of the modernization of the infrastructure, the Federal Aviation Administration is in fact the body that introduced the International Aviation Safety Assessment (IASA) Programme. It is within the context of ICAO that it is administered by the FAA. The United States Federal Aviation Administration when they established this International Aviation Safety Assessment Programme in August 1992 and went visiting countries around the world, it also had a political agenda. It was at that time that the Open Skies Policy was put in train throughout the world with the United States wishing to have an agreement with countries worldwide. It is for that reason that they wanted to ensure that all airlines flying into and out of the United States would have met certain safety standards. We agree with that and, as an aviation nation, we took full cognizance of that.

The Minister also went on to say that the first time we had a visit from the FAA was in 1992, and by 1995 we were assessed as a Category 2 country. That

was the first assessment from the FAA. He did not say that then. He said we were downgraded in 1999. We were in fact downgraded in mid January 2001.

Whereas the administration continued to talk about civil aviation and improvement in physical infrastructure the need for a civil aviation authority was recognized many years ago and the modernization of the legal infrastructure, together with the administrative infrastructure, is an important aspect of this assessment and on the way forward to Category 2. The Minister also made passing reference to the way Category 2 would affect BWIA. I do not think that the Minister should even raise that in this Senate. It was their administration that felt that privatization and "Ackerization" of BWIA was the way to go.

BWIA's expansion in the aviation section is not on the agenda of the PNM. They tried in 1994 to kill BWIA and I have no doubt that in 2003 they will do it once and for all. I am a supporter of BWIA. I know that for 63 years BWIA served Trinidad and Tobago and the Caribbean in the way no other airline did. The saga of PNM and BWIA is in fact a good project going sour. They, in their previous administration, thought that BWIA and privatization was the way to go. They sowed the wind and we are reaping the whirlwind. BWIA is one of the longest serving airlines in this region. In fact, in 1962, we bought BWIA from the then BOAC for $2.2 million. We have had 63 years of safe flying—40 years since we bought it. We need to do everything possible to keep BWIA flying the skies of the Caribbean and the rest of the world; allowing it to be our link with the rest of the world.

The Minister spoke about $6 million to purchase a piece of equipment to ensure that we control the skies the way we are supposed to—the 750,000 square miles of air space that we control. In the Yearbook of the Airports Authority of Trinidad and Tobago 2002/3 we know of all the other things he did not speak about at the airport.

Page 108 of the Airports Authority of Trinidad and Tobago Yearbook 2002/3 when they were boasting about the physical accommodation about our new gateway to the Americas, the new foundation of the future economy of Trinidad and Tobago—that is what they go out and say when they address tourism conferences. The Minister of Foreign Affairs, when he pursues businesses—and I know that he would do that on a continuous basis—to attract foreign direct investment to Trinidad and Tobago would boast about the airport and tell them about the state-of-the art facilities that they have there. [*Desk thumping and Laughter*]

They will go out and tell them that the new north terminal consists of 35,954 square metres; 380,000 square feet of building and 14 second level aircraft gates for international flights. They would tell them all of that. They would further tell them of the two ground level domestic gates. They would tell them about the overall layout of the building consisting of three main entrances. They would further tell them that they are providing for travellers with special needs. They would tell them that there are restroom facilities for persons with disabilities. They would go out there and boast about the airport. They would tell them that that is the place where people get their first and last impression of Trinidad and Tobago. They would boast about the gateway to the Americas. They would boast about the fabric on which the future economy of Trinidad and Tobago would be based.

Many people ask me why the Attorney General is always picking on me. "How come she is always talking about the airport this, that and the other?" "Why yuh doh rough her up?" I say, "I not in that; I not in that". I only wanted the country to know that the Attorney General was the Deputy Chairman of the Airports Authority of Trinidad and Tobago, when it was Project Pride, and they brought shame to Trinidad and Tobago. I want to tell them that our Attorney General was the Deputy Chairman of the Airports Authority of Trinidad and Tobago, charged with the responsibility of building a first-class facility. After $116 million, there was nothing to show. Zero! The Attorney General can attack day after day. I have no problem with that, if that is the way she plans to do it.

We have lots of problems now with public buildings without modern facilities to ensure that the physically challenged have access to everything. Nobody knows these things and we need to tell them. If they do not know, I will tell them. They can go to the airport and look at it. I know the pain, after Project Pride and the shame it brought to the PNM and Trinidad and Tobago. Piarco Airport is a state-of-the-art facility whether they like it or not.

So, Madam President, do you see why I did not expect the Minister to open Piarco Airport. I was waiting here expecting him to do that and I came prepared. Today I will tell you, Madam President, about all the facilities. He spoke about one facility that is not the responsibility of the Airports Authority of Trinidad and Tobago; one facility for $6 million to administer the air space on behalf of the international community. At the Piarco Airport we have elevators with Braille markings. Nobody knows that. They do not understand the level at which we went to ensure that every citizen would have freedom of access to the airport facilities. They do not know that and many people in Trinidad and Tobago do not know that

we thought it was important to provide physical infrastructure so that foreign direct investment would come to Trinidad and Tobago, the economy would grow and we would continue to provide sustainable jobs. We were interested in ensuring that we bring direct foreign investment to Trinidad and Tobago; providing proper jobs for the citizens of Trinidad and Tobago; working towards single digit unemployment or zero unemployment and not temporary make-work schemes that are not sustainable. That is what it was all about. They do not understand that all the public telephone kiosks and water fountains meet the American Disabilities Act standards. We took a decision that all new public buildings in Trinidad and Tobago—the library that they cannot manage—all have facilities for the physically challenged. That is our record.

He told us about spending $6 million on something unrelated to the airport. The 100-foot cathedral ceilings with glass walls to provide travellers and other visitors on the north terminal with a sense of open space; when they look at the facilities, they go out and tell them that. This is the document they use in the tourism sector to encourage people to come to Trinidad and Tobago.

I do not think that the Minister really studied what took place and what is taking place in terms of the improvement in the legislative agenda. For a long time now, the present administration has been working and getting all the things necessary to make sure that we move into Category 1, but it is not working in the same unison it is supposed to. They are supposed to ensure that they continue to improve the physical infrastructure. Then they can move on to make sure that we have the legal infrastructure. Then they should make sure that we have the proper training going on simultaneously, so that we would have competent people as inspectors to ensure that we are in a position to satisfy the requirements of the FAA on a continuous basis.

We need to address the inadequate and, in some cases, the non-existent regulatory legislation. We need to ensure that we improve the advisory documentation. We need to ensure that we address the problem that we inherited of experienced airworthy staff.

The history of this administration is unbelievable. When we became independent in 1962, the government then, as we lowered the Union Jack, said that we would replace the United Kingdom Civil Aviation Authority (UK CAA) with locals. In 1962, we allowed Great Britain to look after our external national security and the only other civil institution that remained under the care of the UK CAA was the Civil Aviation Department to look after civil aviation administration in Trinidad and Tobago. After the promise was made in 1962, it was not until

November 1999, 37 years later, that we took a decision to begin a transition that should have been in place since 1962. Talking about doing it—"coulda, woulda and shoulda"—cannot operate. It is not a question of saying it a hundred times and it happens. We have to work. We cannot just dream or talk about it. They are professionals at talking about it, but they are not putting in the hard work to make that talk a reality—a lot of talk, but no deeds. That is their record.

In fact the UK Civil Aviation Authority should have trained personnel. The reason given for the retention of the UK CAA in August 1962 was to make sure we train people so that we had succession planning in place. Thirty-seven years later it took a UNC government to do that. We went out and sought people with experience in the aviation sector—sons and daughters of Trinidad and Tobago. It was in fact a Trinidadian, a great aviation person, Bobby Thomas, who went to Jamaica to set up their CAA. Under our administration—may the Lord rest his soul—we recruited him to come back here. Unfortunately, he did not survive a bout of cancer. We took that step to get persons with experience—something that should have been done since 1962. They did not do it. They talked about it, but it just did not happen. The record of this administration continues to be dismal on every front.

When we took that decision, we recruited people with experience in the aviation sector and began to move forward. It was not only a question of legislation; we had to have personnel—experienced airworthy staff, which was an important aspect to ensure that we had proper succession planning in place, as we established a civil aviation authority, so that we would have a continuous supply.

We need to have proper control on important airworthiness-related items, such as issuance and enforcement of airworthiness directives. We need to ensure that we establish minimum equipment lists. We need to ensure we have investigation of service difficulties especially when we have reports coming in to assess them. We need to ensure that we have adequate technical staff to collect data, store it, to be able to retrieve it on a timely basis, so that they would be able to use it as a tool. This is not information for information sake, but information as a management tool to ensure safety and airworthiness of aircraft operating between Trinidad and Tobago and the United States, and as important to all other parts of the world.

We have an enviable record of safety in Trinidad and Tobago that we need to preserve. We need to make sure that we look at the non-conformance of the requirements of all the systems that we need to put in place. We need to ensure that we address trained flight operation inspectors and to make sure that we look

at how we put the training programmes in place so that we will never have a shortage. In fact, Trinidad and Tobago is normally the training ground for people in this category so that they will go around the Caribbean and the rest of the world and share the knowledge. We need to pursue vigorously the development of our aviation sector. Although it is going through some trying times after September 11, it will be the future economy of Trinidad and Tobago. We need to look at that and make sure that we modernize all the things necessary and establish post haste the Civil Aviation Authority of Trinidad and Tobago and poise our nation to move forward as a First World nation.

I thank you.

Sen. Dana Seetahal: Madam President, from the contribution of the previous speakers, we now know more than we knew before of civil aviation in this country. It is in that context that I make my contribution.

This Bill seeks to amend the existing Civil Aviation Act, which came into effect in November 2001. It appears to me, from what the Minister said when he went through the clauses, that this is a tidying-up Bill. However, I did not hear him say anything about clause 5. He went from the purpose of clause 4 to the purpose of clause 6. I was waiting for clause 5 because that is where I have serious concerns. There are three issues in this Bill with which I have concerns, but clause 5 is the main issue.

Clause 5 seeks to include in the current Civil Aviation Act three new sections, the first of which is section 26A, which states: "subject to the Industrial Relations Act, the Public Services Association of Trinidad and Tobago shall be deemed the certified recognized majority union under Part III of the Industrial Relations Act for the bargaining unit comprising the monthly paid or monthly-rated employees of the Authority."

Now, Madam President, the section, in effect, is saying that the Public Services Association of Trinidad and Tobago (PSA), without having to go through the process of obtaining recognition to be certified as a bargaining unit for the employees, will be deemed the recognized majority union. That is my understanding of section 26A.

Part III of the Industrial Relations Act (IRA) provides for a process through which unions can achieve this status. You go through Part III, you make an application; there is a Recognition and Certification Board of the IRA and, according to the IRA, the board shall expeditiously determine all applications for certification brought before it. That same Act says, at section 32(2), that all trade

unions that desire to obtain certification of recognition under this part shall apply to the board in writing, and there is a process outlined.

The Minister did not say anything about this, but in the explanatory note, there is a statement that a new section 26A would allow for the continuation of representation by the association that formerly represented employees who have transferred from the public service. That is what is said there.

Whether that is so or not, or it is the intention, it seems passing strange that there should be an attempt by the Legislature, which would eventually be the Government because they are the ones bringing this Bill, to entrench the Public Services Association as the recognized majority union for persons employed with the Civil Aviation Authority. I do not know what is the purpose. It may be that there were employees from the public service, as section 26 of the parent Act says, who transferred. There are many other employees; people could have terminated their employment. They could have left the public service. They could have come from scratch and joined the Authority, so why should the PSA enjoy that privilege? I do not know that this currently obtains in industrial relations.

Before the 1972 Industrial Relations Act, there were certain unions given this status, but not in 2003. I, without any further explanation, cannot support the introduction of a section 26A because there is no reasonable explanation put forward why the PSA should be given special prerogative.

Apart from that, the proposed section is not as clear. It says, "subject to the Industrial Relations Act". Does it mean that that clause is subject to the entire IRA? If it is so subject, it has no effect. It means that PSA would have to apply in the normal way, so why bother to protect them? This clause cannot be logical as it stands. If in the Explanatory Note it is said that they want to continue having the PSA as the recognized union, and they say dispense with the process and have the status for free, then that is one thing and we would have objection to that. But if they say, "subject to the IRA", then it makes no sense. They might as well take out the whole thing and let the PSA, with whatever unions that now represent the airport workers, apply for recognition as the majority union. That is my suggestion.

Section 26B, which is really a copy of section 38(1) of the IRA would only have importance if 26A is passed. I do not now need to go there.

On clause 7 the Minister said that the reason for the change from a requirement for an affirmative resolution to one of a negative resolution is that he wants things to move quickly—he does not want to waste time having a whole

debate on the regulations. I think that is a problem. It is true we spend a lot of time debating here. We would seem to some—wasting time going through a lot of regulations, but something as important as regulations concerning our civil aviation is very important.

If we can go through this process for the Motor Vehicles and Road Traffic Regulations, which the same Minister brought before us earlier this year, which we went through and passed with certain concerns, when we are talking about civil aviation—all those regulations that a minister can pass—that is something we need to debate. I see no good reason for having these regulations come here only for negative resolution.

I checked yesterday and found out that there has never been—to the recollection of the various Clerks of the House—any real debate in respect of a negative resolution. It comes before the other place and there is not even a vetting committee. It comes here and we do have a committee, but when there are pages and pages of regulations, can you honestly say that a committee comprising three or four people can do justice to regulations dealing with licences, inspection of navigation aerodromes, the certification of aircraft operators and airmen: all these things that are so crucial to the safety of our aircraft? I do not think so and I do not agree with any suggestion—unless we have some urgent reason for changing section 33—to read "negative" instead of "affirmative" regulation.

The last point I wish to make is that we have, throughout this Bill, various amendments that seek to correct serious errors in the Act. Clause 7 repeals 33(5). Why? According to the Explanatory Note, because it was inadvertently placed in section 33. In other words, it should have been in section 34.

We have other sections, for instance in section 34B we have the words "subject to section 40", which makes no sense and they are deleting them. In section 37, there is a reference to the word "paragraph" when what is meant is section 33. This is what the Bill is tidying up. It is a great pity since these pieces of legislation go through two Houses: all of the legislation goes through both Houses. In the House of Representatives we have vetting. The Bill goes through its stages and it comes to the Senate. We go through all of that and there are so many errors. There is a tendency sometimes for us to say "that legislation was passed in 1986, so it must be good." This shows that sometimes we sit here and allow not so good pieces of legislation to go through. It is incumbent upon us Senators to carefully study the bills before us. I would not say that we have not been doing it, but it appears that within recent times we may not have been as careful as we should or as intent or as interested. Sometimes we get carried away with many things.

It is useful for me to know that now the airport caters for the differently-abled. That is information that I like to get. The Minister provided us with lots of bits of information, but sometimes it is more to our interest to concentrate on what we are about here to avoid passing legislation that we have to come back to amend or have it go to the court and the court says, "That is an absurdity, it can only mean this or that."

I thank you.

Sen. Prof. Kenneth Ramchand: There are a number of small points I want to raise and one big one. I agree with my colleague, Sen. Seetahal, on the question of negative resolution. I do think that the matters have to come to Parliament and be properly debated.

When I asked the hon. Minister whether the safety and equipment problems that he was highlighting had anything to do with the downgrading, I did not intend to offer comfort to Sen. Baksh. What I was trying to do was quite ironic. How is it that these people come and inspect our place, see how substandard our equipment is, how dangerous it is to the flying public and to aircraft and communication and they are downgrading us, but not for that. They are downgrading us because we do not make decisions fast enough and it is essential that we must have it done by negative resolution of Parliament and if we turn it to negative resolution of Parliament, they would upgrade us. That is absurd. We are focusing on a legislative framework and infrastructure—that is okay, we want to do that, but I do not like the way people are bullying us, telling us what we have to do to pass their exams, when we have serious life and death exams to set for ourselves and pass. I add to Sen. Seetahal's argument about wanting to go back to an affirmative resolution in Parliament.

The second thing is, having seen 26A—and again I support Sen. Seetahal, but for different reasons; I support her out of ignorance—I want to know, in a set of amendments like this, purporting to be seeking an upgrade, what does entrenching the PSA as the majority union have to do with it? When I saw that I felt it was irrelevant.

Next, we literary people fly off at all kinds of different angles and sometimes it is good for us to do that, but we have a Parliament of people with common sense who can pull us back. Several weeks ago, I heard a minister of government say we do not need an airline; we need air services. Then I come here and I see a harmless looking amendment saying, in defining "air operator", that "air operator" means—the original Act No. 11 of 2001 says that "air operator" means

any organization, which undertakes to engage in domestic commercial air transport. The amendment now says "air operator" means any person, organization or enterprise. So, we are now slipping in "person" and "enterprise". I want to know what that is for. Is there some poetic connection between this thing floating about in the stratosphere?

I think that the Minister who did this was the one who sold the airline to Acker. This statement floating around here is now connecting with this new definition of "air operator". Is this amendment intended to prepare the way to finally kick off BWIA and have a whole lot of contract carriers operating here, or business groups doing all kinds of charter flights to supply flights to Costa Rica and so on? It might well make sense, but if it makes sense, do not come in through the back door. Give us a chance to say, "No, I am a patriot and BWIA is an essential." Caroni (1975) Limited is an essential service. Electricity is an essential service. They do not have to make a profit because what they do for the country is not always quantifiable in terms of cash. The national airline has to do with pride; it has to do with doing our own thing; it has to do with independence; it has to do with seeing about our own safety. They cannot go and get some Polish "fella" to fly some "racadang" plane; everybody will fall outside Montego Bay. I want to know what is the meaning and significance of that thing about air operator. I find it ominous.

When we passed this Bill in 2001, it did not have a 7(d). Now I am very glad for us to have a 7(d) and Sen. Seetahal was saying we come here and quarrel and do all kinds of things and pass slackness. How come they are coming with a Bill to make provision for Trinidad and Tobago Civil Aviation Authority and you do not have a 7(d)? How have we been proceeding without a 7(d)? I have asked questions of people who know and I have been told that previously we did our regulations in consultation with the United Kingdom Civil Aviation Authority. They were consultants, they got money, but their contract was terminated. Their contract was not terminated in 2001. Their contract apparently was terminated a few years before. Now, I am going over in a kind of nightmarish way all the flights I was on between the termination of the contract and the coming into being of our authority, which I stupidly thought had powers to regulate safety. All that time I "coulda" dead, Madam President. I am frightened. How did we proceed between the end of the UK CAA contract and the coming into being of this Trinidad and Tobago Civil Aviation Authority? How did we operate? I would certainly like to get an explanation. I would also like to know how that thing has been operating since 2001 without a 7(d).

3.30 p.m.:

Madam President, I had communication with some airline pilots and they have suggested to me that something illegal and unsafe is going on and our Civil Aviation Authority has rushed into sanctioning something which is potentially very unsafe. It is not a union matter as such, but the people who spoke to me are members of the union. It is technical to me, but I will try to mash it up into plain English.

There is something called the flying duty time limitations (FDTL); they work out a relationship between the number of hours and the number of landings. The norm for one of the sections being operated by BWIA is that if you take up duty 0800 and you end at 1259, that is 14 hours, the FDTL is 14 hours. The appropriate number of landings for that is one, which is called one sector. It is 14 to one. If you are doing two sectors, then your duty time has to go down to 13¼ and three sectors goes down to 12½. The more sectors you have, the fewer hours you get, because a landing is a very stressful thing—it takes up a lot of your mental energy—if you are like me, you are frighten every time you are landing and taking off too.

The pilots who are doing this, have been working with this roster, as recommended by the United Kingdom's Civil Authority. I have been told that they were simply instructed that there was a change. You do not start at 0800, you now start at 0600. The hour at which your duty starts is very important. If I have to check in at the airport to begin at 6.00 a.m. I have to wake up at 4.00 a.m. I wake up at 4.00 a.m., go to the airport on a 14-hour schedule, so fatigue will set in at some point. The hour at which you start is important.

The first change that was imposed upon them was that they have to go in at 6.00 a.m. and not 8.00 a.m. but they are still going to 1259 and the sectors were changed. One sector, 14 hours; three sectors, 14 hours; four sectors, 13 hours. Now, the pilots I have been speaking to say that this is quite criminal and it exposes them to stress which can be a great danger to the passengers. The decision—I want to know now, if BWIA applies to the authority and the authority makes that decision: yes, we are switching to this, what technical advice did they get? Whom did they consult with? I am interested now in the composition of the board and the qualifications of the director general.

I do not see anything in the amendments. If we are coming here to try to persuade people that we have a good regulatory infrastructure, you cannot tell me that you will have a lawyer, an accountant, a management studies man and one

technical person on a panel of eight. I feel that this legislation—if it is to convince anybody and give comfort to pilots and comfort to passengers and ensure maximum safety, then this board has to be reconstituted and the regulations would have to show that the people who get on the board at least half of them are people with knowledge, expertise and experience in flying and safety matters.

The pilots have said that the new system is illegal. I do believe it is because there is no 7(d) in the existing legislation. The civil authority has jumped the gun and made this change even though there are no regulations that permit them to do so. Secondly, I do not know what process of consultation with experts took place. I am not convinced, from the description of the membership of the board, that the board has the technical competence to make that decision.

Madam President, stress is a very serious business. I have here a synopsis of the research, taken from NASA and BADA Reports. Here are some snippets/phrases:

> "A significantly increased vulnerability for performance-impairing fatigue after 12 hours.
>
> Ten hours, then it is recommended that flight crew members be restricted to no additional landings following the flight."

Incidentally, this draconian thing that has been introduced, in the correspondence states, that the reason for it is to save hotel expenses. The airline wants to save hotel expenses, so they are endangering the aircraft, the people and the different places where the aircraft will fall because they want to save hotel expenses.

> "Over time, extended flight duty periods can result in cumulative effects of fatigue."

Madam President, these "fellas" have to fly from here, Piarco, Barbados or Kennedy Airport and just drink a sweet drink and turn back and come. That is how the Government is saving hotel expenses.

> "To promote recovery from the acute fatigue associated with an extended flight duty period, off duty time, is recommended.
>
> For some cognitive tasks optimal performance is achieved after about five hours then declines to its lowest levels after 12—16 hours on task."

All I am trying to illustrate is that an authority cannot make decisions like these, if it does not have the expertise in itself, or if it does not have a structure by which it consults with people who have done the necessary research to find out

whether it can do what they want to do. Madam President, I was very disturbed to get this information. I do hope the Minister would offer some kind of explanation or consider how we can address this kind of problem. I am appealing to say give the pilots what they want. I told them I am not coming to argue their case; I am coming to deal with the matters which arose from the facts that they have given me.

I want to close with a suggestion that we really do—incidentally it is not very clear what is the relationship between the chairman of the authority and the director general. I understand the chairman is a pilot and a practising lawyer. I do not know if I could be a pilot and practising lawyer and also be chairman of the Airports Authority. If that is the case, I find that a very serious conflict of interest and also something where you cannot really give of your best. I would like to be clear on the relationship between the chairman of the authority, the qualifications and functions of the chairman: whether it is a part-time or full-time job and the membership of the board. I would like to know how one becomes director general and what are the qualifications. I would like to see specific, technical qualifications included for membership on the board.

I am sorry to have spoken on a matter I do not know anything about, but I felt it was very important that these opinions be expressed. Thank you.

The Minister of Housing (Sen. The Hon. Martin Joseph): Madam President, I am pleased to participate in this debate on a Bill to amend the Civil Aviation Act, No. 11 of 2001, specifically, to respond to some of the concerns raised by my colleagues, Sen. Baksh and Sen. Dana Seetahal. Let me first start with Sen. Sadiq Baksh because he indicated in his contribution that the Minster was going fine until he mentioned two things: BWIA and the airport. He also indicated that one of the things that we as citizens of this country are not aware of is the amount of innovative developments—I am summarizing—that his administration put into the airport. He quoted extensively from the annual report. He said we go out and praise the airport.

There are some specific things about the airport that will not change. We will not refute those things. What we must, however, put on the record is that the indication, in the first instance that it was the UNC administration that was responsible for making sure that public facilities take into consideration the disabled—Again, we need to correct the records. It was a PNM administration, during the period 1993—94, that ensured that a policy with respect to persons with disability—Madam President, you are not supposed to be brought into the debate, but I am sure you may have sat there. I am sure you were a Minister of Government, at the time, responsible for the development of that policy, with

respect to people with disability and the establishment of an action committee to put into action: buildings, schools, housing et cetera. We do ourselves—I think my ministerial colleague said that—an injustice when we give the impression that things start here, end here and we do not acknowledge continuity when those things take place. [*Desk thumping*]

Madam President, let me give you and this honourable Senate the assurance that as this administration talks about developed society status by 2020, we recognize that developed society status is not just about infrastructure, it is about a mindset; it is about thinking. If it is that the previous administration of 1996—2001 did things which we are going to continue, we are not going to be ashamed to say so and will continue. [*Desk thumping*]

Let me say something else, Madam President. Again, the Minister in piloting the Bill said that he was concerned when he saw that there were certain things needed in the airport that were not done. They were miniscule: a $6 million or $11 million. He then compared the implementation of those things with some of the costs. He made reference to the $11 million spent on the VIP Lounge. Permit me, I do not want to spend too much time on it, I just want to respond in a responsible way. I think the best way I can do that is by quoting, if you would permit me, an editorial in the *Express* of May 02, 2003:

"Humphrey's change of mind

> John Humphrey, a Minister of Housing in the UNC administration, has called on people who have information on the construction of the controversial Piarco Airport terminal building to come forward and assist the ongoing enquiry into the project.
>
> According to Mr. Humphrey it is important for citizens to understand exactly what happened, how the project was completed and, particularly, how it ended up being so much over the estimated budget.
>
> As he wound up his own evidence before the enquiry the former minister conceded that his call indicated a change of mind:
>
> 'I have no problem with the commission now. I had problems in the past, but I am no longer critical of the commission,' he declared even as he observed that the enquiry presented 'a wonderful opportunity for the public to know what has happened.'"

The Senator gave us some indication, limited as it were, as it related to the project. There are still opportunities that lend themselves so that the public as a

whole could know exactly what happened. As a member of the public I also stand ready to find out exactly what has happened. Former Minister Humphrey indicated that this is going to provide some insights for us, so that in the future we would correct some of the mistakes if some were there.

Let me respond to Sen. Seethal who raised the issue with respect to clause 5 in terms of 26A and the whole question of the Public Service Association. Basically, the concept that is being pursued here is normally referred to in industrial relations as successorship. I am sure my colleague who is much more knowledgeable in industrial relations will help me. It is normally referred to as successorship. Basically, the concept of industrial relations is the question about employees who are employed with a company, if that company changes hands or whatever—it is a concept that was taken straight from when we introduced the Regional Health Authorities Bill. I am going to use part of a contribution made in this Senate on Tuesday, February 15, 2000 when the then Minister of Health, Dr. The Hon. H. Rafeeq, introduced the Bill:

> "The principles governing successorship in industrial relations are: Firstly, the new employer must carry on substantially the same operation as the previous employer.
>
> Secondly, the operation or business must be carried out in substantially the same way.
>
> Thirdly, the employees must be substantially the same.
>
> 'Under the Industrial Relations Principle of Successorship, a new employer who carries on substantially the same business in substantially the same way, with substantially the same employees must grant these employees terms and conditions of employment no less favourable than those previously enjoyed, with credit for previous service with the former employer so that the assessment of any benefits dependent upon length of service would take into account the previous service.'"

The Minister, in piloting the Bill also indicated that there were some aspects of the Regional Health Authorities Act that dealt with the whole question of successorship that created some challenges and the whole purpose of making some adjustments in this particular Bill is to address some of those challenges.

The question of successorship is not just confined here; it is a universal principle of industrial relations. I was looking at the United States where the Act—what will be equivalent to our Industrial Relations Act would be their National Labour Relations Act. The entity that is responsible for ensuring the implementation of their National Labour Relations Act is something called the National Labour Relations Board. Permit me to put on the record the whole

question of successorship again. The article focuses on the doctrine of successorship and under it a new employer can be obliged to bargain collectively with the union in place at the newly acquired facility. The new employer could even be compelled to adopt the requirements of the former employer's labour contract in limited circumstances.

It also goes on to talk about two factors being critical with respect to successorship. The National Labour Relations Board would consider whether there is substantial continuity.

Where there is substantial continuity between the old and the new enterprise and whether a majority of the employees were employed by the predecessor entity, in making the substantial continuity determination, the board examines a number of factors, including whether the business of both employers is essentially the same; whether the employees of the new company are doing the same jobs, in the same working conditions and under the same supervisors; and whether the new entity has the same production process, produces the same products and, basically, has the same body of customers.

The issue of substantial continuity is the issue that is driving this process. It is not done for the fist time in this particular piece of legislation; it was done in terms of the RHA.

The Senator raised another issue with respect to why identify the PSA. If my memory serves me correctly, the National Union of Government and Federated Workers (NUGFW) was identified specifically in that piece of legislation.

Sen. Mark: I think you are wrong on that.

Sen. The Hon. M. Joseph: I stand corrected, but they identified the daily-rated which, in essence, was NUGFW. I, again, stand corrected, but the fact is while their names were not specifically identified, it was quite clear that the body they were referring to—

> "Subject to the Industrial Relations Act, the majority trade union which, immediately, prior to January 01, 2000 represented the daily-rated workers who were employed in the health-care facilities…"

That was NUGFW. The Senator wanted some explanation as it related to this particular clause. As I said, it comes out of the whole question of the Industrial Relations principle of successorship. Those were the only two issues I wanted to clear up.

Thank you very much.

[*Two Senators rise*]

Madam President: I think we need to remember in the Senate, that there is, by custom, a certain order by which we recognize speakers. I find that we are going haywire. It is usually the Government, an Opposition then an Independent and back to the Government, Opposition and back to the Independent. However, in this case, you did stand before and I will recognize you. Please, try to follow that order.

Sen. Bro. Khan: Madam President, with due respect, I would not like to get into the position of going against the normal patterns. By all means, I will concede.

Sen. Carolyn Seepersad-Bachan: Madam President, by no means Senator, I was in any way—you could have the position. I am not too bothered by the order.

I am pleased to join this debate on a Bill to amend the Civil Aviation Act, No. 11 of 2001. What I wanted to start with—my contribution would be rather short—is to return to when the parent Act was established in 2001. The Minister would recall that Act No. 11 of 2001 was assented to on October 12, 2001 and the debate on this particular Act took place in both Houses sometime between June and July. During that time—like my colleague, Sen. Prof. Ramchand—I assumed that the Civil Aviation Authority was established and that the proper rules that were supposed to have been prescribed, were followed. The Minister has indicated that the main objective of this Bill is to be able to achieve Category 1 status.

I want to state—because the Minister himself indicated—a little history as it relates to Categories 1 and 2 status. All of these assessments by the FAA began sometime in mid-1991. Sometime in 1995/96 further assessments were undertaken by the FAA, resulting in a downgrade to Category 2 sometime in 1996—if I am correct. After another assessment by the FAA, a number of issues were outlined and the then Airports Authority undertook to review and make suggestions. Sometime in 1997, we regained Category 1 status. I just wanted that to be very clear because the impression we are getting is that we did not have Category 1 status. We had Category 1 status in 1997.

Further to that, there was another assessment in 1999, which the Minister spoke about extensively. That led to a further downgrade to Category 2. I want to put this in the right context. The last speaker, Sen. The Hon. M. Joseph, spoke about continuity. When we speak about these issues we must put them in the proper context. We must remember what has been happening globally. We must also understand the sort of standards that have emerged over the last five years. One would agree that the latter five years of the last century would have seen so

many new standards emerging, so many new technologies, the advanced pace at which standards and procedures have developed, the advanced pace at which new ideas have come to the aviation industry. I want to quote from a couple of them because if we do not put that in the right context, we will sit and believe that we do something today and we regain Category 1 status and we are safe, no. It is going to be an ongoing process.

The Minster spoke at length about the moneys that had to be allocated for the upgrade of some of the systems that he is talking about in the airport. He spoke at length about the instrument landing system and the—if I am not mistaken—the telecommunication network, which is really a telecommunication network that allows you to transmit messages between different countries, internally as well: whether there are flight plans, general messages or weather reports.

During the late 1980s I had the opportunity to work with this very same system. That is what I wanted to be very clear on, there is such a system in existence at the airport. The Minister would remember there was a whole modernization at that point in time, in terms of air traffic control and a new system was acquired, it is expected that that will not last forever. That system is now coming to the end of its life. That system was a proprietary system and it will have limitations because it was conceived at the time when technology was not at the level it is today. With respect to the digital network that the Minster referred to, that would transmit the data messages, that was required for the management by the Civil Aviation Authority. We must remember that as we go forward we will have to continue upgrading. I want the Minister to understand as well that he may spend $6 million today for this new system, but he will be surprised to know that within two years—compared to the last 10 to 20 years—with the pace of technology, what he would have to spend. These systems are coming open, standard, there is interoperability; meaning that it will link with third-party packages and it will also mean that it can be built from modules. As we go along we will find newer facilities and more functions which we would want to add to the system, if we are to keep pace with the ICAO and FAA and to maintain that Category 1 status.

Just before I finish that point, I want to say what is Category 1 status. I know the Minister spoke about it, but I want to quote from this summarized FAA document which states that Category 2 does not comply—it lists approximately four or five requirements. When you have been downgraded to Category 2 status it is because you do not comply with ICAO standards. Let us note what these standards are:

1 The country lacks the laws or regulations necessary to support the certification and oversight of air carriers in accordance with minimum international standards.

Which is what this Act intended to do, which is what the amendments brought by the Minster are dealing with.

2. The Civil Aviation Authority lacks the technical expertise, resources and organization to licence or oversee air carrier operations.

Madam President, I want to divorce that from the legislation. That now deals with the resources that you provide; these very same systems that we are talking about.

3. The Civil Aviation Authority (CAA) does not have adequately trained and qualified technical personnel.

This is a human resource issue of the continuous development and training of the personnel who have to run and manage these systems.

4. The CAA does not provide adequate inspector guidance to ensure enforcement of and compliance with minimum international standards.

Again, what we are talking about is the certification effort and the quality assurance issues.

5. The CAA has insufficient documentation and records of certification and inadequate continuing oversight and surveillance of air carrier operations.

That last one deals with how we develop our systems and procedures and what sort of procedure manuals are put in place to deal with these issues. By not having the documentation in place, we fail to be able to convince that we are capable of what we are doing. These are the issues that I wanted to put in the correct context before I proceed with the other point.

This is why I want to quote from a couple of these documents again. This morning I had the opportunity to surf the net and I looked at air traffic control. I do not want to bore the Senate with too many of these, but when we look at the air traffic control systems and some of the systems that have evolved, not only are there instrument landing systems—the Minister may find that one of the things that has emerged has not only been the VOR but also the satellite-base systems, that is the global positioning systems. These are becoming more accurate. Hence, it is becoming a requirement under the FAA that if you want to be a participating country, a signatory to this convention, very soon you would have to be adhering to and adopting these very same systems. I quote this from the Internet where it

speaks about three types of systems of air traffic control, modernization efforts in the navigation systems and the landing systems as well.

Another one talks about the FAA, which is just confirming that these are some of the systems that the FAA will be adopting. I also had the opportunity to talk to a couple of the members from the Civil Aviation Authority. I asked if there was any representation at this last conference in March of 2003. That was the whole issue about the emerging standards. I would just quote from the opening statement by the President, ICAO when he addressed the participants at a conference. I would quote just one paragraph because I want to put this in the right context.

> "The other challenge facing you in the task ahead will be to ensure that safety and security do not take a backseat to economic opportunity.
>
> In the liberalization of air transport and the integration of a global air traffic management system, the synergy between the economic and air navigation aspects remains based on the safety and security of civil aviation. There can be no growth in air transport without safety and security and no viable civil aviation without sound, economic policies.
>
> Consequently, in order to bring about the necessary confidence in the liberalization process, your results should have built into them, safeguards for a liberalized environment as well as the paramount need for safety and security. Your tasks then are ones of creative thinking, clarity of purpose and truly consensual and global perspective to the regulatory issues that affect us all and failure of international air transport.
>
> It is my personal conviction that international air transport is a dynamic and forward-looking industry and in spite of our current situation, we should face the future with courage, hope and optimism."

Madam President, the reason I put this is because the landscape has begun to change. Not only is the Civil Aviation Authority charged with the security and safety aspects, but they must also be based on sound, economic policies, if the aviation industry must advance.

This brings me to the Bill. I could not understand it when I read over the amendments. I tried to figure out which particular amendments would have possibly arose out of this audit that took place by the FAA which says—and the Minister says—we urgently need for Category 1 status. I was going to leave out clause 5, because I cannot see any relationship with the PSA being able to continue with its security of tenure or that has anything to do with us getting Category 1. I

join with my colleagues in trying to understand why the PSA must be given this security of tenure. As far as we know it, freedom of association is a constitutional right. I cannot understand—I would have thought this particular Bill, with this clause, needed a constitutional majority because you are infringing on a constitutional right.

It has been stated and proven that freedom of association, which includes the right to join a trade union, is a fundamental right that is entrenched in our Constitution. I have no problem with all that the last Minister spoke of with respect to successorship. I think the intent is that we want to ensure that the employees are well protected and that their benefits are not in any way adversely affected. Once that is achieved, I see no issue with saying that you have to give this two-year period or grace period to the association. Even in the very same document, by not having freedom of association, the air traffic controllers—we are talking about trying to attract some of the very best qualified people. We are talking about trying to stimulate an industry and getting people to go off on their own and acquire the training, given the type of technology they will be faced with.

Even when I read this FAA document it spoke about the issue of air traffic controllers, labour and FAA; it did also mention the past problems with President Reagan. I do not know if you would recall when all the air traffic controllers were fired because the workers miscalculated. The new union that came forward to represent those workers ended up restating some of the very same issues that the first union had identified. These were issues that dealt with the technical issues, training opportunities and the advancement of workers and the whole idea of ensuring that this is a group that can move forward. I am not sure by even putting this in you are stymieing the development of the Civil Aviation Authority and we are defeating the purpose we are all about. We want to be able to give them that freedom of association and the freedom to come up with a new union which understands their issues and which can address their particular technical issues. I really wish to hear what is the impact of clause 5 of this amendment with respect to our getting Category 1 status.

I want to go back to the other amendments. As Sen. Seetahal stated—I was going to do the same thing, but I do not want to repeat—there are a lot of clauses which I agree with. There have been some drafting problems where the word “paragraph” was stated and it should really have been “section”. There was a section—in terms of the regulations—that was put in the wrong place. I think the Minister also alluded to that. I tried to identify the exact clauses in this Bill that

told me this was required for Category 1. The only one that I can come up with is when it dealt with the emergency regulations.

We have heard so much emphasis on how much this Bill allows us to achieve Category 1 status. This is about 20 per cent of the problem. Eighty per cent of the problem is going to deal with how we develop the airport, train people, how we advance the system and how we continue to maintain BWIA. Without BWIA there is no need. All this is done in order to allow BWIA to be able to try and get the flexibility it needs, as the Minister said, the code-sharing agreements and the flexibility to change the aircraft or any other procedures without receiving the FAA approval. To me, those are the aspects that we need to deal with.

Before I close, let me just touch on one or two other systems. I cannot let it pass—so much is spoken about this $1.6 billion airport. After making the point about the technology upgrade and the need for the new digital network—by the way Minister, I do not agree that you just go to the ICAO, ask for a system and they tell you what to buy. In this day and age there are so many competing technologies outside there that you cannot afford to let the ICAO define the functional specifications and tender the thing out properly so that we get the best system. Moreso, it will allow us to get value for money. I do not agree with not tendering and allowing the ICAO to select a system. This is Trinidad and Tobago, we must also be able to have other criteria. We would want something that would tell us—for expandability and upgradability purposes—that it be standard, open and be allowed for interoperability so that later on we can take advantage, being able to upgrade the system periodically and continuously, as opposed to what we were saddled with for the last 10—20 years; when we had to use a lot of proprietary systems so that we would be able to work with different vendors. That is a thing of the past where we just subscribe and we take whatever the ICAO tells us. I do not agree with that at all.

Let me say something on the issue of the $1.6 billion. A lot has been said about the $1.6 billion spent on the airport. I remember, as a student, how many times when we, at the university campus, used to take so many jokes about our airport. There were jokes such as: "You are an energy country going through a boom and here it is you cannot even have a decent airport in this country." When we go to Barbados, some of the students would say: "Why not come and borrow our old airport? Even our old airport is better than your airport. You could use ours." We lent them that money. At the time we had US $60 billion in reserve and at that time we could not even build an airport. The Trinidad and Tobago Government, for 30—40 years, could not make an inroad to building an airport in

this country. [*Desk thumping*] It took a UNC government to build an airport in five years. It is also applicable, because we need the infrastructure. That is why I stressed on the other 80 per cent of the issues, it means economic development.

There is no need to have Category 1 status and to subscribe to all these new and emerging safety standards, because it is going to be an expensive process. What will be the revenue that will support the Civil Aviation Authority? The airport itself is an economic activity, capable of supporting its end. On that basis, we must expand. I want to quote from a Center of New Business Activity.

> "The completion of construction and commencement of commercial operations at the Piarco Millennium Airport marked the end of the journey from concept to completion. But this is really only the end of the beginning of the transformation of Piarco into the export driven business centre of the new century."

Sen. The Hon. M. Joseph spoke about continuity. That is what continuity is all about. You are on to the second phase and this is what we have to address. I had a little opportunity at that time, when the airport was being opened and the National Petroleum Marketing Company had to commission the hydrant refuelling system. I remember I was amazed at the extent—the Government talks about international standards. These are some of the systems that went beyond international standards. The line was constructed and on that system there is supervisory control and data acquisition. That system allows for the automatic control and monitoring of that pipeline system. The safety and emergency shutdown procedures are controlled by a programmable logic control. The line is fitted with surge protectors. The Minister may be aware that that is to ensure the safety of that line. When that line was commissioned, it was such a beauty. I felt so proud that we, as Trinidadians, could have accomplished this.

When I look at the Piarco Millennium Airport, I am proud. I look at it and I say at least, as Trinidadians, we have been able to accomplish this. This is representative of the intellectual capacity of this country. That is what we must understand. When we talk about modernization and automation, look at what we have in the new airport. You have the infrastructure to build on top of that. You have an infrastructure that will allow you to acquire these very same modernized and technologically-advanced, sophisticated, automated systems to allow for control: the same digital network that the Minister is alluding to. We now have the infrastructure to house that properly. This is what I want the Government to understand, it is on to the second phase. That second phase is all about developing the human resource skills and putting the systems and procedures together,

putting the technology and electronics into place to ensure that we have a first-class airport.

These are the issues that I really wanted to raise this afternoon with respect to this particular Bill. We will expect that there will be further upgrades to this particular piece of legislation. I am sure that the Government will continue to articulate its policies. In terms of the aviation industry, we would see pieces of legislation coming forward that would actually drive that process. If we want to be part of the globalized village and if we want to acquire First World nation status, then these are the mandatory actions that have to be taken.

Like my colleague, Sen. Baksh, it is very important for us to understand that we must take our plans and ideas and action them. If we do not action them no one is waiting on us. I always say this, you lose six months to a year. With the pace of globalization, we would have lost 10 years. We would return 10 years. That is why we have to keep abreast of everything that takes place. We have to keep ahead, if possible.

Madam President, on that note—you would love that I beg to move. I hope that the Minister would respond to some of the issues that I have raised. I wish the Civil Aviation Authority well. I hope they take on the challenge and continue to work ahead, move along and act as if we are a First World country because I believe that. You act as though you are a First World nation, you adopt the standards, aspire, become ambitious and move forward. I hope that all the employees of the Civil Aviation Authority will take up the challenge and actually advance themselves in a way that will make us proud.

Sen. Brother Noble S.A. Khan: Thank you, Madam President, for allowing me these few words. Before I get into what is before us: A Bill to amend the Civil Aviation Act, No. 11 of 2001, permit me to extend congratulations to our new Sen. The Hon. Christine Sahadeo. I want to mention that she has now joined an expanding number of distinguished Caribbean women who serve our countries. She has just started here in this Senate. She is pretty young and I guess the world is as wide as it is expansive. I hope by the grace of God, we will see more of her again in other areas. [*Desk thumping*]

There is an old prayer I would like to share from our old traditions, it is just four words. [*Arabic spoken*] The translation of that is, may God intercede when there is darkness along the way and a healing. He is sufficient onto us. May you be guided under his shield.

Towards the end of what we are about now, indeed we have heard quite a bit. Taken against the historic background, I do not know—with your permission—if you will allow me to call on the Vice-President to join me in a minor key, figuratively that is, when we think in terms of the air transport. Sen. Baksh mentioned that from the early comings of people through the system—I think he mentioned Mr. Boldon—that this in an important aspect in the area of culture. One morning we heard a grumbling in the air and it was the Graf Zeppelin paying a visit to Trinidad. Later on, in a more jocular way, in E minor. I guess I will remain in the flat, the question of shame, shame, shame, so very long ago. Somebody had come in a plane, what took place from Port of Spain to Brighton and how the people got so frighten. I am sure all of us will join in the chorus, "sans humanite".

This is just part of it and it is very serious, because it brings to bear an element of culture. Not a culture drawn on the performing arts, but a culture of behaviour, a culture that is linked with our air transport. That culture, I would particularly make reference to BWIA. I understand they have been around for 63 years. That is just a little less than my own age. During all my time, I have always heard of BWIA. While on the area of culture, I remember there was a great mural put up in one of the old buildings. Just a plea outside of here, as far as our great traditions and art are concerned, it was just destroyed when it could have been dismantled. It was from the Central Bank and went across to the old treasury building—Carlyle Chan again.

As far as the arts are concerned, the culture of BWIA was baffling to me, hearing our very affable Minister for whom I think we have very great respect—I personally have a great respect for him—in his thrust onward into bringing the connectivity that exists with what we are now to what modernity is supposed to bring; especially with what is taking place with technology, advanced information systems and what have you, this element of BWIA being part of it.

The Minister's explanation of many of the negatives that we are seeing now—international in scope—is part of the global thing, reposes with us. He mentioned the Iraqi situation, September 11 and the negative effects these major events have had on travelling and, obviously, the backpressure that went back to us as a small unit which has been around for quite sometime: 63 years and some would say, have a very enviable reputation. It was baffling to me what you are hearing. I do not know how much truth there is in the question of the elimination of BWIA. Of course, thinking in terms of a pure economic point, across the boarder, dealing in that form of matrix. One would think, in extending beyond today, there is hope

for it. Even if we were to terminate it, the question of when things become better or if it does become better, to rejuvenate it or just keep it as a subscription towards ongoing cost, as against if we were to terminate and have to resuscitate it, or create a new entity, so to speak.

I am sure our accountants and Ministry of Finance people would obviously be in a better position than myself to give some look at this. I think it is an important factor. It is not only the dollars and cents thing. As mentioned earlier, some of these agencies form part of our very culture and being. This is extended, not only to our little country, Trinidad and Tobago, but the Caribbean and I would dare say to the Third World per se.

Linked to this is the management structure which—as far as my little knowledge in this area is concerned—when things were apostrophized as going good—we were able to spin around and show our profits, so to speak. I would think in a situation such as that, it brings some sort of credibility to the management that still exists. To come back to the circumstances that put us in this negative situation, that is BWIA, to think in terms of coming into conflict with the management would just—to my mind—be looking for something to possibly put our heads into the sand of what the reality of the situation is.

It is indeed a bit flighty and baffling. I am sure when the hon. Minister speaks, he will bear some clearance on that. I could understand some of the points that were raised by Sen. Seetahal and Sen. Prof. Ramchand. Some of those points were in my mind and some were elaborated on. I look forward to that.

With respect to Categories 1 or 2, there seems to be some kind of feline activities in this again. Reference was made to the aspect of bringing these elements into the mix of this hallowed House today.

Thank you, my lady, for allowing me these few moments to share these thoughts with you.

Madam President: This is a good point for us to take the tea break.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

The Minister of Science, Technology and Tertiary Education (Sen. The Hon. Danny Montano): Madam President, I want to make a brief intervention this afternoon to respond to one or two rather surprising statements that were made by Senators on the other side. I am sorry that the Senators whose comments

I wanted to take on are not actually in the Chamber but, nevertheless, for the record, I will make them.

When Sen. Baksh was making his contribution, he referred to—with some pride—the fact that the new airport has 14 international gates and two or three local gates. I do not know why the Senator chose to boast about these 14 gates. I am advised that at Piarco—both now and for the foreseeable future—there were never more than five planes on the ground at any time. If you take away five gates from the 14 gates, it would mean that there are nine gates standing idle doing absolutely nothing and, of course, each one has an extremely expensive mobile—I do not know what it is called—it is one of those long tube-like things that you walk through that goes right up to the door of the aircraft—and those things cost millions of dollars, and there are 14 of them but only five planes have been sitting on the ground at any one point in time, and they are talking about planning for the future. That airport would be obsolete and everything will be broken down before we ever have the demand for that volume of equipment. It is absolutely astonishing when one hears the type of logic used by the good Senator in suggesting that the airport is somehow a good thing.

Madam President, when Sen. Seepersad-Bachan was making her contribution, she said something to the effect that for 13 years the PNM did nothing, and could not get an airport off the ground and so forth, and in five years, they built an airport that cost $1.6 billion. It is not a question of the fact that the PNM could not get it done. The PNM could have spent $1.6 billion—and I am sure that if we had done that we would have gotten much more than what the UNC got for that $1.6 billion. But the reality is that the PNM administration, then and now, was not simply going to spend taxpayers' dollars wildly and recklessly.

The philosophy behind the building of the new airport was for the airport to be a revenue centre on its own and to pay its own way. In 1995—if my memory is correct—the level of the State support for the then Piarco Airport was in the order of about $6 million to $8 million a year. That was the level of subsidy that the Government had to incur to run and maintain the airport as it was then. The level of support that it now has to provide is in excess of $350 million a year, because of the loans and the fact that the airport cannot operate at a profit. That is the difference! Could we have done something as stupid as that? Yes, we could have, but we thank God that we did not. That is the difference!

Madam President, you only have to ask yourself: Why would any right-thinking person make such a blatantly stupid decision to put down an airport that we do not want, we do not need and we cannot afford? Well, I do not have to

remind the Senator that just now there are some people who would have some explaining to do in the courts about that matter, but that is not the way that the PNM does business. That is not the way at all!

I remember, before the airport was finished, one of the subcontractors on the project called to give me some information about the tiling of the airport, and he explained to me that almost every modern airport in the world uses ceramic tiles, and the specifications in the design of this airport called for ceramic tile of a particular specification that came from a specific factory in Italy, and this subcontractor was the local representative for that tile and that company. So, he felt that he had the leading edge, in terms of being able to meet the tender requirements since he had the exact product.

This subcontractor told me that the pricing of the tile came up to something like $14 a square foot when installed. He also told me that there were three recent airports that were built in Singapore, Hong Kong and London, and these airports used the identical tile that he was supplying, and that was the reason for the specification in the design of this airport but, lo and behold, a design was made by a particular Minister in the UNC administration to use granite tile—no tendering, it was just an executive decision. I am not sure of the cost of the tile, but it was something like $60 a square foot, but the difference in the cost of the tiling on the airport was $29 million, and that figure was just for the tiling alone, with no justification whatever.

We have all seen the disaster of those tiles; no two tiles are the same shade, some of the tiles are lifting up, and some of the tiles have moisture in them and one could see that the tiling there is an absolute disgrace, a waste of money, and you have to ask yourself: What were they doing? And it is not their money! The money that they were spending belongs to the people of the country. What were they thinking? And Sen. Seepersad-Bachan said that she is proud of the airport.

Madam President, if you have been anywhere outside of this country that airport has to be one of the stupidest designs that I have ever seen in my life. [*Desk thumping*] It does not work as an airport; it might work as a cow shed, but it does not work as an airport. How could anyone be proud of that? How could anyone be proud of the waste? How could anyone be proud of the fact that they raped the treasury? How could they be proud of that? And the Senator has the arrogance and the audacity to stand here and say that she is proud of the airport. A disgrace! The airport is a national disgrace!

Madam President, those were the issues that I wanted to deal with. When we stand in the Senate and we speak, it is not only about politics, but we must speak

the truth. When one looks at that airport and the design—the airport was designed by a company that had never designed an airport before, so that company had no experience in the designing of an airport and that is what we got. One could see the results of that $1.6 billion that is still climbing. It is a disgrace! When one looks at the cost, the interest element alone on the debt is something that we as a country cannot afford. When one looks at poverty in the country, the level of education, health care and the alternatives of where that money could have been better spent, we are wasting the money just paying the interest on that monster, and that goodly Senator says that she is proud of that, and I say shame! Shame! [*Desk thumping*] She cannot come here and say that—well, she could say it, but she should not say it. [*Laughter*]

Madam President, I have said what I wanted to say this afternoon and, therefore, with those few words, I will take my seat and leave the rest of the responses to the Minister of Works and Transport. Thank you. [*Desk thumping*]

Sen. Wade Mark: Madam President, let me take this opportunity to welcome Sen. The Hon. Christine Sahadeo to this Parliament. For the record, let me indicate to you that at the last sitting of this Senate, you had on occasions to remind me that I was in breach of the provisions of the Standing Orders of the Senate, which require Senators of this honourable Senate to remain silent and seated whilst the Presiding Officer is on her feet. I wish to place on record, my profound regrets in this regard, and to state unequivocally, that no offence or embarrassment was intended by my actions, which on reflection took place, as you would recall, in the heat of a moment.

Madam President, I wish to join this debate on this Bill that is now before this honourable Senate, which is a Bill to amend the Civil Aviation Act, No. 11 of 2001. It is just a few pages, but it is quite loaded and, in some instances, explosive. What I would like to say from the very outset is that the hon. Minister of Works and Transport—a very innocent looking chap—a Member of Parliament I should say—introduced this Bill, but in introducing this Bill, at no point in time did he make reference to the parent Act, which I thought was a bit unfortunate, particularly, taking into account the contribution of the hon. Sen. Martin Joseph, who made mention of continuity and, at least, recognizing the good work of the UNC, wherever he found it was appropriate and necessary to mention it and, if necessary, give some support—I would not say praise—to the UNC.

Madam President, why did the Minister not make reference to the parent Act? I have the parent Act before me, which is Act No. 11 of 2001. This Act contains 72 clauses, and it is a very comprehensive piece of legislation. You would recall

that this legislation was introduced in separate packages and, eventually, it was agreed that there should be one comprehensive package encompassing the Navigation Act, the Airports Authority Act and the Aviation Act, or Bill at that time. The Parliament agreed at that time that there should be a comprehensive Bill, and hence the reason for Act No. 11 of 2001, and this Bill was introduced by the then hon. Minister of Works and Transport, Sen. The Hon. Jearlean John.

Prior to the introduction of this Act, Trinidad and Tobago was caught in the Dark Ages, insofar as modern civil aviation standards, requirement practices and legislation were concerned. In a previous Parliament, which died in 2001, I have the records—but when this Bill was introduced in the other place, the Member of Parliament for Diego Martin East, the Member of Parliament for San Fernando East and the Member of Parliament for Port of Spain South spoke out against this Bill at that time. I would also indicate that when this Bill came to this Senate, the hon. Attorney General had some very important remarks to make—including what we are seeking to change today, because, in that legislation, we had a negative resolution, insofar as the regulations were concerned. I recall from the record that the Attorney General—who was then a Senator on the Opposition Bench—made a stirring appeal to the Government to change it from "negative" to "affirmative" and we did that. The Attorney General also at that time had a lot to say about the board that was appointed. The Attorney General felt at that time that members of the Civil Aviation Board ought not to be appointed by the Cabinet, and she made reference to the North West Regional Health Authority in her contribution.

In fact, the Attorney General proposed that the President of the Republic of Trinidad and Tobago appoint those members of the board after consultation with the Prime Minister and the Leader of the Opposition. The Attorney General has not spoken yet; I suspect that she is silent. I do not know if, for instance, she will support the amendment from "negative" to "affirmative". I understand from what the Minister is saying that it will bring about much delay as there is need for efficiency and speed in decision-making and, as such, there should be no role for the Parliament.

When I, myself, was in another incarnation during the period 1991 to 1995, I always supported an affirmative resolution, because I felt it gave the Parliament an overseeing kind of role in the context of governance in this country and, at the same time, as Sen. Seetahal said, it is very difficult for just a few people to oversee such an important package of regulations. So, I hope that I would get the support of the hon. Attorney General today just as when she was on the

Opposition Bench, she called for an affirmative resolution, and we supported it. We expect the Attorney General to give support to this particular matter today.

Now, it is sad when one looks at the parent Act one sees all the Acts that were repealed when this Act came into being, and one would also see, for instance, in section 72, that there are about seven pieces of legislation dating back between the period 1952 to 1959, and they were all repealed when this particular Act came into effect on October 12, 2000. So, between 1959 to 1995—with an NAR period of 1986 to 1991—the PNM regime was in charge of this land, and the PNM regime—contrary to what the hon. Minister said that the Government wants to introduce progressive legislation and it wants to do what is best for the country. Maybe the Minister is an honest person, and maybe he is in the wrong pack, and they may not reshuffle him at the moment; and maybe the new Senator, the hon. Minister, is in the wrong pack as well.

The reality is that during the period 1959 to 1995, the PNM regime—brain dead as it is—did not see the need to revolutionize and to modernize our civil aviation industry. I am proud as a former minister in a UNC administration to have played a part, because I did contribute to that debate, and I am proud that we were able to lay the basis for modernization of the civil aviation industry. [*Desk thumping*] So, today, we have our hon. Minister of Works and Transport bringing an amendment which might have been drafted by the UNC administration whilst it was in office, thus giving the Attorney General little work—apparently just to clean up here and there. [*Interruption*]

I want to indicate that when we talk about the civil aviation industry, there is an almost symbiotic or organic link between that industry and BWIA. BWIA has been flying the skies for some 63 years—and as my colleague said—with no accidents of any major fatality or consequence during that period, and that is a great record for BWIA but, today, where is BWIA? BWIA planes are being seized. In fact, I understand Sen. Dr. Lenny Saith almost did not return to Trinidad, but he got away, since the people who are in charge and who have leased those aircraft to BWIA, were preparing court papers in London to seize that big aircraft that Sen. Dr. Lenny Saith came back on. The Minister came back in time but, unfortunately, he is not here today. Madam President, BWIA is a disaster today, and why is BWIA a disaster?

Madam President, where I am standing now, I stood here in 1994, and I was speaking—not to the Minister of Works and Transport—but to the Junior Minister in the Ministry of Finance who was the person who had piloted the Bill to sell out BWIA to a fellow called Edward Acker. Since BWIA left us and went into the

hands of Edward Acker, BWIA has been going downhill. As we speak today, BWIA retrenched over 617 workers, and do you know how much money these workers got a month ago? These workers got half month's pay, and these workers have mortgages, children to go to school and all sorts of commitments. BWIA has not honoured its obligation under the Severance Act or the agreement between the various trade unions and BWIA.

I, again, drew the attention of this honourable Senate to the kind of unfortunate development that took place at the airport. I know the hon. Minister sought to justify it, but it was quite unfortunate. This nation will never move forward—whether it is PNM, UNC, NAR or NJAC—until there is a policy like what we were pursuing of uniting this nation. [*Desk thumping*] If one discriminates—as the PNM has been discriminating against the population—then the country would be like a street sign standing still, and hoping to give 20/20 vision. That is not going anywhere. It is going fast but nowhere.

I raise the point that at BWIA today, as we speak, maintenance of its aircraft has been contracted out. The ramp attendants were executed via VSEP and 28 workers were removed, they were retrenched. I am a bit surprised that the hon. Minister of National Security and Rehabilitation was able to issue work permits to foreigners to take over the maintenance function of BWIA in this country. So there are foreigners—there was an agreement between BWIA and an airline—I cannot remember the airline right now, but that airline has its maintenance staff here, and the Ministry of National Security and Rehabilitation is responsible for the issuing of work permits. A total of 617 workers were retrenched at 3 o'clock, and by 6 o'clock there were foreigners on the ground, and the Minister of National Security and Rehabilitation issued those work permits. So the Minister of National Security and Rehabilitation is promoting foreigners over nationals. The Minister might not be conscious of it, but that is what he did. The Minister has executed a number of workers who are nationals of this country, and who have the capacity and expertise of 63 years of flying incident free.

Madam President, we used to maintain aircraft from abroad, and nationals of this country were responsible for doing so, and the management of BWIA just eliminated all these persons. I am surprised that the Minister of National Security and Rehabilitation did not ask some questions before issuing those work permits.

If we go to the controversial clause, which is clause 5 of this Bill, as a trade unionist, I would say that if we look at Act No. 23 of 2000, when the regional health authorities were introduced in 1994 or 1995, the PNM failed in 1994 to put provisions in that Act for a smooth transition from the Ministry of Health to the

regional health authorities and, therefore, you had the National Union of Government and Federated Workers (NUGFW) representing daily-rated, weekly-rated and hourly-rated workers in that particular sector, and NUGFW wanted to go across to the regional health authorities to play their role, but the legislation was a stumbling block. The National Union of Government and Federated Workers came to the then government at that time and we, too, wanted to bring about the transition so that we could have given the regional health authorities the kind of authority and responsibility to execute their duties under the Act.

Sen. The Hon. Martin Joseph made reference earlier to the fact that we introduced this Act, which is now law, and secrion 3 of this Act says:

> "Subject to any written law, every registered collective agreement and registered memorandum of agreement within the meaning assigned to such agreements and memoranda under the Industrial Relations Act, in existence before January 1, 2000 to which the Chief Personnel Officer was a party in relation to hourly, daily and weekly-rated employees employed in the health care facilities, shall be valid and binding on the respective Authorities and the majority trade union…"

We did not say the NUGFW nor did we spell out the National Union of Government and Federated Workers but we said:

> "and the majority trade union which immediately prior to January 1, 2000 represented hourly, daily and weekly-rated employees who were employed in such health care facilities and in respect of whom the…Industrial Relations Act."

And it goes on:

> "For the purposes of the agreements referred to in subsection (1) and all other purposes related to the Industrial Relations Act, each Authority is deemed to be the successor to the Chief Personnel Officer effective January 1, 2000."

And subsection (3) says:

> "Subject to the Industrial Relations Act, the majority trade union which immediately prior to January 1, 2000 represented the daily-rated workers who were employed in the health care facilities and in respect of whom the Chief Personnel Officer was deemed to be the employer under the Industrial Relations Act, shall continue to represent such workers."

Madam President, I would like to suggest to hon. Minister and the Attorney General that if they want to follow good practice, they could borrow this Act

word for word and replace what is here in this Bill. It is not proper to have the name of a trade union outlined in legislation. It is better you deal with the majority union representing the monthly-rated employees, and everyone knows it is the Public Services Association (PSA). So, I would like to suggest to the hon. Minister that there is already precedent established under the amendment to the Regional Health Authorities Act, in order to ensure that workers are, in fact, represented at that particular level.

What is disturbing to me—and the Minister needs to give us an explanation—is that nowhere in the amendment in clause 5, is it advanced that the registered collective agreement between the Chief Personnel Officer (CPO) and the majority union representing monthly-rated paid employees would remain in force. Why is that left out in this amendment? Why?

If there are 175 workers who are now members of the PSA, and they belong to the Civil Aviation Division of the Ministry of Works and Transport, there has to be a collective agreement governing their terms and conditions of employment. The only time that collective agreement could be replaced or removed is when it has expired, and there is an agreement between the parties for the institutionalization, establishment or replacement of that agreement. So if that particular element is left out, it would mean that, by law, those 175 workers who fell under the Civil Aviation Authority—what would be their terms and conditions of employment in this authority? What is the basis for their employment?

Madam President, one cannot tell me that the Government is going to negotiate new terms and conditions. There has to be a subsisting agreement, and even when an agreement or the period for negotiation expires—because, an agreement under law is no less than three years and not more than five years. That is in the Industrial Relations Act. That is the law. It means to say that if there is a three-year collective agreement, and even if, for instance, the employer and the trade union fail to arrive at a collective agreement on the expiration of the subsisting agreement, which is for three years, each worker within that bargaining unit, for purposes of the IRA has, what is called, an individual contract of employment. What is an individual contract of employment? It is the same terms and conditions that are contained in the collective agreement that has expired. So the 175 workers in question must have collective terms and conditions of employment even on an individual basis, if the renegotiation process has to start, and you cannot have this clean sweep. I believe this is an area that the Minister has left out.

Madam President, we ensured that in the amendment of clause 3 that we proposed, the collective agreement registered was, in fact, law in the context of the transition, so that there is an agreement here, but in this piece of legislation, there is none. I wonder why the Minister left it out? I do not believe that the Minister's agreement—if I anticipate him—would be to modernize the civil aviation industry. I would be the first to agree that the terms and conditions of public officers in sensitive industries are appalling, and it leaves much to be desired.

I would agree that in the civil aviation industry there is need to upgrade the terms and conditions, because these air traffic controllers are always on strike—when I say always on strike, I mean that they are revolting and rebelling because they are not happy with their terms and conditions of employment. So I agree that the Minister would have to upgrade those terms and conditions, but the Minister must have a platform to launch it, and the platform is the subsisting collective agreement, and then the Minister could always renegotiate new terms and conditions for the new authority.

Madam President, what I do not appreciate too much is the double standard, in dealing with trade unions. There is one rule for the PSA and another rule for the NUGFW.

Hon. Senator: That is what you did.

Sen. W. Mark: Do not tell me what I did. The Member is now in Government so do not follow me. [*Desk thumping*] Sorry, Madam President. That is why I get in trouble because, "I does be looking at them fellows and I have to look at you." [*Laughter*] If we did it and it was wrong, it was wrong. I do not think that the Government should be saying that we did it and, therefore, they are doing it now. The Government should do things on an equitable basis and they should be fair to all.

This Government, the PNM regime, discriminated against the doctors of this country who are represented by the Medical Practitioners Association of Trinidad and Tobago (MPATT). The Government went to Tobago and allowed the same PSA—I have no problem with the union, but I have problems with the double standard. I have no problem with a union negotiating the best contract for its workers. I support that. I have no problem with that because the more the merrier when it comes to terms and conditions for workers. All I am asking for is equity, fair play and justice. The Government of Trinidad and Tobago gave doctors in Tobago better terms and conditions than their counterparts in Trinidad. That is discrimination!

I heard on the news—and I hope it is not true—that the disabled persons who were protesting outside the National Flour Mills were beaten and brutalized last night by police. That is what I heard on the news today. I hope it is not true, because I do not believe that the PNM would be so brutal to beat physically-challenged people. I hope it is not true. I am just saying what I heard on the news. At this point in time, the PNM is brutalizing the country, so I am not surprised if they brutalized the physically challenged. As I said, I do not like double standard. I believe the Government should be fair to the trade union movement.

I have an Industrial Relations Order (IRO) from the Industrial Court between the Sugar and General Workers Trade Union and Caroni (1975) Limited. The Government is coming to enshrine in law, legislation to have succession—or as my colleague said—successorship, in the context of the trade union movement, and that is not improper. That, to my mind, is the way any civilized government ought to go. The union in the sugar industry was forced to take Caroni (1975) Limited to the court, and do you know for what? No consultation! And for the record, let me tell you what the Industrial Court ordered Caroni (1975) Limited to do.

The court granted an injunctive relief on an interim basis—this case started today in the court. This injunction stopped Caroni and/or its servants and/or its agents or shareholder otherwise to restrain from further implementing the VSEP plan offered to its hourly daily-paid rated employees. That is what the union was asking for. The union was saying, let us negotiate. If workers want to go to another enterprise you cannot stop them. A union cannot stop workers if they want to go via—

Sen. Joseph: Just on a point of clarification, I am not so sure—and that is why I am asking if it is proper for us to be discussing the details of that injunction which is before the Industrial Court? I do not know.

Madam President: Is it a public document?

Sen. W. Mark: Yes.

Madam President: It was just occurring to me—and I was hoping that maybe some of the lawyers in the Chamber could let us know, but if it is public document then I assume—

Sen. D. Montano: If I may, I think that this was appealed. More than that it really has no relevance to this debate. That is a Caroni (1975) Limited issue and not a civil aviation matter.

Madam President: The Senator is comparing some of the various places where similar things have been put in place for trade unions, so I am afraid that I would have to turn that one down, but I am not too sure whether we are dealing with something here that we should not be dealing with. Could Sen. Seetahal, the Attorney General or some other Senator give me an opinion?

Sen. Morean: If the Senator is simply referring to the matter without going into merits of the issue, and without going into details then that is okay, but if the Senator is going further into the details and the merits of the matter, then it would certainly be improper.

Sen. W. Mark: I was just outlining what the court ordered. I was not going into the merits.

Madam President: Are you finished with it then?

Sen. W. Mark: I gave you one but there are four more to go.

Sen. Seetahal: Madam President, I think you had asked me whether an injunction had been granted.

Madam President: Yes.

Sen. Seetahal: If there is a judgment—and I think I saw a judgment passing around—in the matter, certainly, in terms of the law, the Senator could refer to it. There is nothing there. A judgment is clearly a public document, and we refer to it all the time.

Sen. Morean: The fact of the matter is that the matter is still before the court, and an order was made that has been appealed.

Madam President: So, therefore, once it is before the court we should not be discussing it here. [*Interruption*] Madam Clerk, could you give me some guidance here? [*Pause*] I gather from the discussion with the Clerk of the Senate and listening to the Attorney General, et cetera, that you could mention it Senator, but you cannot go into details.

Sen. W. Mark: Madam President, I am not going into details, I give you that assurance. What I simply wanted to advise is that the Industrial Court had to restrain a company that is owned by the State from brutalizing—

Sen. Morean: On a point of order. That is certainly misrepresenting the Order that was made by the court and that is certainly improper.

Sen. W. Mark: That is my opinion and not yours.

Madam President: Senator, again, you are speaking across the floor instead of addressing the Chair. I think her point of order has to be taken, and I rule in her favour and, therefore, try not to impute those kinds of motives.

Sen. W. Mark: Madam President, well, I would put it in another way—I would be guided—it is a Government that does not care about the people. I want to let you know that the point I was simply making had to do with fairness. The data entry clerks at Customs felt the full weight of this regime; workers in other industries are under pressure.

Sen. Danny Montano, in his brief contribution, talked about UNC ministers who would be going to court and those who would be going to jail, because of the airport scandal. Madam President, through you, I want to tell the Government Benches that the stench of corruption is so high in this regime—and they have just been here for 15 months—that I believe that if the Government continues at the rate that it is going, the whole Cabinet might be in jail. [*Desk thumping*] And even if they take two of our people they would take 20 of them. Corruption at Petrotrin! Corruption at WASA! I am responding to Sen. Danny Montano who rose to his feet to defend his Government and to attack us. They are thieving at WASA, and right now there is a case of $40 million missing and the Government brought Lindquist to investigate. There is corruption at CEPEP. One just has to get the facts and one would see what is taking place. There is corruption at the National Housing Authority refurbishment programme. A total of $45 million was allocated to that programme and that figure went up to $75 million, and Sen. Danny Montano has the gumption and the gall to stand here and defend the PNM!

I read in the newspaper—and I have the evidence here today—that there are "ghost gangs" in the URP women's programme.

Sen. Yuille-Williams: Madam President, I think you are being patient to allow the hon. Senator to move on, but I do not see the relevance of what the Senator is saying has anything to do at all with this debate.

Madam President: Sen. Mark, I think that you have responded, so could you come back please to the Bill under discussion?

Sen. W. Mark: Madam President, we are going to have the date for local government election announced on Thursday, so I will have much time on the hustings to tell the country about this nefarious, thieving and corrupt regime that is seeking to get a new mandate at the level of local government election, but I would not detain them at this time. [*Desk thumping*]

I would like to suggest that under clause 7, we do not support the Government changing "affirmative" to "negative". Leave it so. Let the Minister of Works and Transport come to this Parliament and let us debate the regulations for that industry. I do not think that it will, in any way, compromise the efficiency levels at the Airports Authority. I do not think that the Federal Aviation Administration (FAA) would, in any way, have a problem with the Parliament of Trinidad and Tobago debating the regulations for the civil aviation industry, but I have some problems with the role of the Minister in this exercise.

If one looks at clause 8 which says:

> "33A. The Director General may prescribe standards in respect of regulations made under this Act.
>
> 33B. The Director General may make emergency regulations and emergency rules in circumstances where it is expedient to do so and shall disseminate same immediately by electronic means…
>
> (2) In furtherance of subsection (1), the emergency regulations and emergency rules shall be published in two daily newspapers…"

Madam President, as I stand here, I am hearing the Attorney General echoing in my ear. When the Attorney General was here as a Senator—I am talking about when the Attorney General was just an ordinary member, as we are today—she has now been elevated to high office, so she has now graduated, merely temporary—[*Interruption*].

I have a problem with clause 8 new section 33C of this Bill which says:

> "The Minister may within seventy-two hours of the making of an instrument under section 33B(1)—"

And it goes on at subsection (2):

> "An Order, regulation or rule made by the Minister…"

Why does the Minister want to have this kind of power? If the Minister is saying that we want independence—that is what the Attorney General and then Senator and Member for San Fernando East was also clamoring for—and there is a Board of Directors and a Director General, why do we want to give the Minister that kind of power? We understand from our experience—and we are learning a lot from what the then Opposition had said when they were in Government—the ways and means of trying to curb—

Madam President: Hon, Senators, the speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. W. Mark: Madam President, I did not really want it to be that long. I really thought that I would have made a limited intervention this afternoon, but I have gotten so accustomed—especially when I look at you, Madam President, I keep going and going. If I look at the fellows across there, I will stop. But once I am looking at you, Madam President, you give me the inspiration, energy and drive to continue to speak. [*Desk thumping*]

I believe that clause 8 new section 33C needs to be revisited. I am wondering why this authority was not given to the board, and let the Director General execute these emergency powers, because you want to give the Civil Aviation Authority the kind of independence that we believe it ought to have, particularly, if the Government wants to maintain the status of Category 1. The legislative infrastructure that the Minister mentioned together with all the changes that are here, I would like to respectfully suggest to the Minister that we look at this question again.

I go to clause 14 of this Bill which says:

"Section 71 of the Act is repealed and the following section substituted:"

Madam President, we had exempted under clause 71, all taxes, including value added tax, corporation tax and custom and excise duties, and I think the Government has included the Green Fund levy. What I would like to ask the hon. Minster is: What is the income of the Airports Authority? We do not have an account for that. Here is a Bill where the Green Fund is included and we had passed the Civil Aviation Authority Act in 2000. I would like to know if the Minister could tell this Parliament what is the annual earnings or income of the Airports Authority? How much money does the Airports Authority as well as the Civil Aviation Authority earn on an annual basis? The Civil Aviation Authority earns income, and we would like to know why the Government has extended it to the Green Fund?

6.00 p.m.

Madam President, remember this is an authority that was established since 2000. This Act was proclaimed in 2001and promulgated by the President. So by now, 2003, we ought to have had some kind of planning. If you look under section 15, Part V of this Act, it says:

"(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 as 'the Plan'), in respect of the programmes or goals of the Authority.

(2) The Plan shall include details of the following:

(a) the Authority's operational environment;

(b) the strategies of the Authority;

(c) performance measures of the Authority;

(d) review of performance against previous Plans;

(e) analysis of risk factors…"

Madam President, the PNM, having stolen the election, the hon. Minister only became a Minister—I know the truth offends, but let me talk to Madam President—in October 2002. I would like to ask whether the hon. Minister could tell this Parliament, since the appointment of this board of directors of the Civil Aviation Authority, whether he has had the privilege of receiving a corporate plan? Because I thought the hon. Minister would have come here today to provide to this Parliament—as he seeks to get the Parliament's support for these amendments—some kind of programme of the Civil Aviation Authority, but apparently, the hon. Minister has not gotten to that stage yet.

We on this side would hope that the same treatment that is now being given to the PSA by the PNM regime would be extended to other trade unions in the not too distant future; particularly those unions with which the Government may not have friendly relations. I hope that at the appropriate time I would not have to rise here to deal with that matter. I hope that the Government would take into account the views that we have expressed, and that they would make the necessary changes as proposed by us on this side, failing which—Madam President, you know it would be very difficult for us to give support to this measure. So we hope that the Government would be very mindful of the fact that there are some fundamental matters on the table at this time, and we hope that they would give them due consideration. Madam President, I thank you for allowing me the opportunity to make my contribution on this very important matter. [*Desk thumping*]

Sen. Mary King: Madam President, I would also like to add my congratulations to the new Minister, Sen. Sahadeo, and I think with such a brilliant woman in the Ministry of Finance we are going to see some definite positive changes in Trinidad and Tobago. [*Desk thumping*]

I also think it is, indeed, desirable and overdue that our rather expensive Airports Authority be put in a position to be upgraded, so that we as a country could benefit in whatever ways we possibly can, because we do need assistance in all matters at this time.

I would like to put some additional thoughts into the debate and as we modernize our procedures and regulations to fit the times, perhaps this would be a good time to also think about modernizing our thinking on our national airline. Clause 3(b) speaks of our aircraft throughout the world, and this has made me think again about our role and BWIA's role in our development. There is no doubt that an airline is required in this region of island nations to ensure transportation; to ensure certain economic realities exist, which should force us to examine what services are necessary and strategic. BWIA's strategic service to the region should be like the provision of roads to network us to point (A) to (B), and we certainly need transportation like the ferry service to Tobago. Also, in our telecommunication systems, we do not have to own every hub, every node and every satellite which connects us to the rest of the world.

If we look at BWIA's financial statements, its begging trips to the Government which seem to be on a daily basis now, have demonstrated over and over again that BWIA, without access to capital and with its lack of economies of scale, is certainly not equipped to compete in the contestable market, that is the international airline business. With the funds that we are expecting from the energy sector boom that we all talk about—I think the priority for spending the little capital that we would get, is surely towards creating industrial entities that are profitable to employ people and are sustainable.

BWIA, as a long distance carrier would never be profitable and can only be sustained by subsidies. I am of the view that BWIA has to find its *niche* markets in the region and/or support the transportation, the security and the economic and social demands of the expanded ACS region. In this regard, the open skies policy, as demanded by liberalization and globalization czars, is not at all to our advantage. And we read about the pilot fish that swims with the shark, but we can eat just as well as the shark, so long as we recognize that we are the pilot fish. When we get delusions of grandeur and think we are sharks then we can misapply our meagre financial resources. This, I believe, is what we have been doing for many years.

Our strategic path towards sustainable development should not be in mimicking the activities of our neighbouring sharks, but in benefiting from the use of their infrastructure and perhaps by selling them services and goods that

would efficiently utilize our resources. The know-how of our people has to be put to work. Running an airline to the ends of the earth may satisfy some egos, but in my view it is not the way to go. Perhaps a well-focused regional plan would enable all of the 14 gates, Minister Montano, of our airport to be both operational and perhaps make BWIA, for the first time, really profitable.

So to go back to the Bill, as far as the proposed amendments are concerned, I think we should re-look that clause 3. Besides that, we must look at section 33C, and like my colleagues before me who have spoken on this particular clause, we worked hard in 2001 to actually have it resolved by affirmative resolution of Parliament, and I would advise at this stage that they withdraw their proposal and that we now revert to negative resolution, because we are concerned about the democratic process, and that as many people as possible have inputs so that we do not make mistakes day after day. I think the country, as a whole, would benefit from further discussion; there would be more transparency and we would get the best regulations if more voices are added to the debate.

I thank you.

The Minister of Works and Transport (Hon. Franklin Khan): Madam President, in winding up this debate I appreciate and recognize the contributions of the Members of the Opposition, the Independent Bench, and also my colleagues on this side. Much has been said over the last four to five hours, and I have taken copious notes here, but basically in my summary, there are five key issues that were raised that deserve some clarification or rebuttal in some instances, and they are as follows.

A key issue that has been dealt with by many of the speakers is the issue of the successorship of the trade union and the Public Services Association in particular. The second issue is the Category 1 status and what are its implications and the issues affecting Category 1, which was dealt with by Sen. Seepersad-Bachan.

The third issue which was dealt with by most speakers and which I would have to obviously spend some time on, would be the issue of negative *versus* affirmative resolution for the regulations. There is the issue brought out by Sen. Wade Mark with regard to the provisions for emergency regulations, and whether the Director General of Civil Aviation should have the authority on his own to do it, and what role the Minister should or should not play thereafter.

Last, but not least, much has been said—and we have linked back this whole thing to—what I call—the "Trinidad Vietnam", which is the airport's terminal

building which would live into the psyche of this country for many years. I should probably talk to the Minister of Health, because we need to set up a unit, like in the United States of America, to deal with veterans who have come through this process because we are all traumatized by the issue of the airport.

Again, I do not like to personalize things, but I have to take the liberty and jump out my crease this evening—Sen. Baksh and Sen. Carolyn Seepersad-Bachan when you can stand with a straight face and watch somebody else and defend something that you know is indefensible, my mother used to say, "God would punish you". Hon. Senators, it is an old people saying but it is a very profound statement because there comes a time in life and in credibility where it is best you do not say anything than to get up—whether it is in Parliament; whether it is on a political platform; whether it is in front of your children; whether it is in front of your priest; whether it is in front of your imam; whether it is in front of your pundit, or your baba. I am saying that there comes a time when we should draw the line and should never—with a straight face—defend the indefensible. That is what the hon. Sen. Baksh, and the good lady, Sen. Carolyn Seepersad-Bachan attempted to do. When you can stand and say—after $1.6 billion—that you are proud and the fountain to drink water in the terminal is "user friendly" to the physically challenged, all is well and good, that is defending the indefensible.

When you can say how many square feet of space there is, and you make no attempt to say how many dollars per square foot it cost to construct that monster, you are attempting to defend the indefensible. When the goodly Senator could say that when she was on campus the Bajan students used to laugh and say, "All yuh have no airport, why don't you come to Barbados and see an airport", what I want to tell her—she is not here—is that at that time I was also on campus and they used to smile and say, "Come and look at our airport". Now they are laughing at us saying, "Look at the airport yuh build for $1.6 million."

Sen. Mark: That is not true!

Hon. F. Khan: Madam President, as I said, my mother used to say, "God would punish you". And you know the good book says that there is none of us good but one—and we know who is good; which means, by extension, none of us is totally good; and I would be the last to purport that the PNM is totally good. The corollary to that statement is that I guess—if I am to use some philosophical theory—that if none of us is totally good, none of us is totally bad. So, by extension, I would not purport to say that the UNC is totally bad although they

came very close to it. [*Laughter*] The UNC is not totally bad, because they have attempted to do a few good things, but they always did it for the wrong reasons.

This country needed a new airport terminal building, but nobody said that they had the right to take taxpayers' money and go into a feeding frenzy to build that cowshed for $1.6 billion. [*Desk thumping*] This is the theme of the UNC. That is why I have a difficulty in associating with this party in any form or fashion. I mean, they are not totally bad because they are human beings, and they would always have a chance to repent because they are not totally bad but they are very close. And their philosophy of operatorship was just that. They were smart enough to know what this country needed and they continue to use it, but they did it for the wrong reason. So we needed a terminal and they built it, but generations would pay for it.

There was a water deficit in this country; we know that; I was a director at WASA in the 1980s. I am a hydro-geologist; geologist, petroleum geologist, you name it. I have practised in all these fields. Nobody said that we should build a desalination plant and put this country in problems for years now, where WASA was selling water at $750 per cubic metre to the industrial estate, when this country has the highest rainfall in the Southern Caribbean; where there is an abundance of surface water. We could have used either ground water, rivers or dams to get water at a much cheaper cost. There was a water deficit but this was an avenue to take the right thing and do it for the wrong reasons.

We know that there was a power deficit; the country was expanding; we needed more power and the PNM Government had reorganized T&TEC and we said, "Okay, for efficiency we wanted power generation and power distribution and that is how PowerGen was formed. PowerGen had a virtual contract saying that they would be part of any expansion of power generation facilities in Trinidad and Tobago. There was a power deficit and the UNC went and formed InnCogen—I want it to go on the record that today because InnCogen has now gone into bankruptcy, the value of the plant is substantially less than the power purchase agreement. So the greater value of the plant is not so much in the hardware of the plant, but in the spurious and corrupt power purchase agreement that the UNC signed with InnCogen. Again, they did the right thing but all for the wrong reasons. Finally, Madam President, I do not want to get too off-track here—

Sen. Mark: You are off-track already.

Hon. F. Khan: No, I am showing you a trend of your thinking with the airport and you are saying that you are proud of it. Finally—the one that is very close to

my Ministry is that they were going to build an overpass. There are issues relating to the overpass; the overpass has to be part of an integrated traffic management plan. If you put an overpass instantaneous—if I can do like *I dream of Genie* and by the shake of a head the overpass appears in the morning, it would create a greater bottleneck into Port of Spain, because we have not made the Churchill Roosevelt Highway a freeway. That has to come concomitant with an overpass at Aranguez, El Socorro and to broaden Wrightson Road.

The plan is there and you would see it in Parliament shortly. In conceptualizing a good project they refused a loan of $150 million from the European Investment Bank at 4.5 per cent interest, with a moratorium of 10 years and a 20-year period to repay the loan; that is the closest thing you would ever get to free money. They rejected that and went to Citibank and borrowed money for 12.5 per cent to construct the overpass. Do you know why? Because EIB say, "You have to tender under IADB rules". Because by sourcing local moneys they had no constraint on the tendering process— [*Interruption*]

PROCEDURAL MOTION

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, I am sorry, I was caught up listening to the Hon. Minister. In accordance with Standing Order No. 9(8), I beg to move that this honourable Senate continue to sit until the conclusion of the matter now before the Senate.

Question put and agreed to.

CIVIL AVIATION (AMDT.) BILL

Hon. F. Khan: Madam President, what I have really done there, by quoting four other projects beside the airport terminal building, is to do a clinical analysis of UNC'S psyche to expose them once and for all, with all the foolishness they come here and talk about what they have really done to this country and to understand, in a very fundamental way, how far they have taken us off the course for serious development in Trinidad and Tobago.

The other issue is the successorship issue. There are two aspects of the Civil Aviation (Amdt.) Bill. The first is, we are doing this to modernize the legislative infrastructure to get Category 1 status. We need it because we live in a global world. Civil aviation, by its very definition means, "I am travelling back and forth from foreign countries to home". We need that legislation in a way that satisfies the bigger players in this game such as the Federal Aviation Administration (FAA)

and the International Civil Aviation Organization (ICAO), and it is part of the international requirement based on conventions.

The other aspect is the transformation of the public service in the context of moving into autonomous statutory authorities, as it were. That transition process is very fundamental to the industrial relations climate and the whole management infrastructure of the public sector. So we need to understand that that is an issue in its own right, and if we deleted that entire clause it would not impact on our ability to get Category 1 status, but it may very well impact on our ability to even make the transition from the department of civil aviation into the Civil Aviation Authority. Every speaker here has accepted, in principle, that workers have rights and there should be successorship.

The issues are based on our experience from the Regional Health Authorities Act, and because of drafting constraints they were not able to implement what, in substance, everybody knew that they wanted. In this Bill we have attempted to get the proper drafting of the clauses so that we can implement what we so desire to implement. The first drafting of the Regional Health Authorities Act, 1995, was very loose. It said:

> "Subject to any written law employees of an Authority who have transferred from the Public Service shall, for the purpose of collective bargaining, continue to be represented by the relevant representative association that formerly represented them.
>
> Any agreement applicable…"

There are about four clauses here and basically that was insufficient. Nothing could have happened and the relevant unions could not gain the required recognition in the new structure.

An amendment was put forward in 2000—which is what Sen. Mark keeps referring to—and this was considered to be more robust drafting to implement what was the original intent to 1995. This could not happen because the drafting was flawed. This was an effort to regularize that situation and then—speaking of bias—the legislation states "hourly, daily and weekly-rated employees". So no cognizance was taken of the monthly-paid staff who were persons represented by the Public Services Association by a deliberate act of the Government of the day when they made the amendment in 2002.

Even then it is my understanding that because the names were not specifically mentioned, for whatever reasons, the interpretation is that one still has to re-apply

to the Registration, Recognition and Certification Board for recognition of the union even though it is a fait accompli. So we are saying that it hurts no one to clean up the drafting. Why should we be ashamed to do what we want to do? Madam President, the legislation says that the PSA has two years and clause 26C says;

> "Employees may form an association which may be registered as a trade union or may join a trade union."

So it does not debar anybody or a group of workers in the Civil Aviation Authority who want to say that they have the majority and say, "Okay, I now want to apply for recognition certification." What it does guarantee is that you have a bona fide union during that period to represent your right. Because if we do it otherwise they would become vulnerable over that interim period and that is what we are protecting. But the workers still have their right to form a union and apply for recognition; apply for certification and go about their business, as they deserve. In this day and age workers deserve that right and we are trying to enshrine that right in specific terms so that no smart industrial relations expert or attorney can deny the workers what is truly their own.

With regard to Sen. Mark's concern about why we did not make mention of the collective agreement, again, as part of the transition process 100 per cent of them are going to move across to the Civil Aviation Authority. We have been speaking to them; there is a transition team that is putting the system into effect, and one of the conditions for their moving is that they need to have new terms and conditions to move across into the authority that is superior to what they have currently. One of the reasons they would be getting their option letters on June 04—which is about a week and a half away—is that they have now concluded discussions with the Chief Personnel Officer for new terms and conditions so that they can move across into the Civil Aviation Authority with an enhanced package that is more akin and pegged to international benchmark for jobs.

As Sen. Mark rightfully said, the air traffic controllers have been virtually getting slave wages for donkey's years and this legislation is to modernize the whole work environment so that they can compete now with a basket of currencies so that they can get the correct terms and conditions of employment.

While I know there is some concern; and there are always little concerns in legislation here and there, again, the difference between them and us is that we do the right things for the right reasons. [*Desk thumping*] [*Interruption*]

Sen. Prof. Ramchand: Madam President, through you, I am interested to get a further explanation as to why was it not possible—instead of saying "the Public Services Association of Trinidad and Tobago"—to say, "the union currently representing monthly-paid, monthly-rated employees", is that too clumsy?

Hon. F. Khan: Madam President, our advice from the drafters was that that was insufficient. Because for some strange reason they would still have to apply to the Registration, Recognition and Certification Board even to validate that. It is a legal subtlety, and we must be guided by the experts. I mean, we are legislators but we are not experts in everything. And if we learn, as a country, to leave some of those decisions to the people who know and understand and learn to take advice, maybe, we would move further and further very, very fast. Sen. Mark 2020 is not far away and we would reach faster than you think.

With regard to the emergency regulations, the issue is that the DGCA has the authority to make emergency regulations, and I would read the relevant new section 33B. It says:

> "(1) The Director General may make emergency regulations and emergency rules in circumstances where it is expedient to do so and shall disseminate same immediately by electronic means or any other expedient means, according to the circumstances.
>
> (2) In furtherance of subsection (1), the emergency regulations and emergency rules shall be published in two daily newspapers within forty-eight hours of the making thereof."

Emergency regulations are just what they are, and we cannot predict what all the emergencies could be. As an executive we have a responsibility for the country. Let me build a scenario for you. An aeroplane might crash—God forbid as I said earlier—at the Piarco runway and a series of things would have to happen which would have to invoke some type of emergency regulations to be determined by the Director General of the Civil Aviation. But one has to understand that when one is dealing with airport security, civil aviation, and aviation in its broadest sense—because with civil aviation there could be military aviation and one could never tell what may happen. Some of the issues that could be envisaged here in an emergency situation could be related to national security issues.

We could have an invasion of Trinidad and Tobago or something to that effect and say, "Well, look this regulation does not seem to fit how we plan to respond to this emergency." So it does not stop the process by saying the Director General

of Civil Aviation has to contact the Minister to make emergency regulations. He can do that on his own. He has 48 hours to implement his plan, but after the Minister has a veto in power to say, "Listen, X, Y and Z issues do not comply with national security issues and that should be changed to C, D, E and F." Because this Bill is very deliberate in keeping away the Minister and the Executive from the day-to-day management of the Civil Aviation Authority. It is only in an emergency situation. Even then the Director General has 48 hours to implement his emergency action plan before the Minister has any say on it.

Sen. Mark: Madam President, through you, I just want to ask the hon. Minister why the National Union of Government and Federated Workers in this amended Bill here had no difficulty—we got it from the same advisers the hon. Minister referred to. They also advised us on this one and up to this time, as we speak, the NUGFW is the recognized majority union for the daily-, weekly-and hourly-rated workers in the regional health authorities. So I am wondering why is the hon. Minister being told that he has to put the Public Services Association when we passed a similar piece and we did not mention the NUGFW. I do not understand it.

Hon. F. Khan: Madam President, it does not take away or add anything. It is just that the drafters are being very specific in what we want to do and we are leaving no loopholes for any eventuality that could happen in the future. We are clear that it does not take away anybody's constitutional rights for joining a union, and it provides the security of the transition process to be represented by a union with a collective agreement that is superior to the one which you were leaving in place. The workers could not expect better. I want to assure you that come June 04, when the option letters are given to the Civil Aviation Authority staff, virtually 100 per cent of them would be moving across.

Sen. Seetahal: Madam President, through you, with respect to clause 5—I had asked during my contribution about the phrase "Industrial Relations Act." The Minister has not mentioned that; because if that whole section is subject to the entire Industrial Relations Act, it would mean that the Industrial Relations Act provisions prevail over those and, therefore, that would have no effect. I have not heard it addressed at all. That is basic drafting.

Hon. F. Khan: Madam President, subject to the Industrial Relations Act in this sense as it relates to recognition—I do not have the Act in front of me but it states that even prior to the two-year period if the workers form themselves saying that they want to join a different union and there are more than 50 per cent, they could apply to the court and the court would give them the right to go and seek

the registration. So the workers are covered in every sense. Again, my advice says "subject to the Industrial Relations Act", gives them that power under the Act to go and seek certification if they do not like the PSA for whatever reason. So they are totally well protected.

There are a couple issues that Sen. Prof. Ramchand referred to—the pilots who went to see you, Sir, you have to be careful. You were right in saying that—"it is something that I do not understand too much but I am just trying to explain what they said"—and you were totally honest and open with it. Again, I hold no brief for anybody: for BWIA; for LIAT; for whosoever it is, the issue is that the working schedules of some of the pilots are being revisited and the Civil Aviation Authority has to amend some of its regulations and modernize them, as the case may be.

Madam President, you would be surprised to know that BWIA has eight planes; I think two are impounded and let us say, for the argument, eight, and BWIA has 180 pilots. I know you all were surprised to hear that. I mean, Sen. Mary King probably knows because she is an economist, but with eight planes BWIA has 180 pilots. It is not our duty as the State—they are talking about Acker and all these things—we are a minority shareholder in BWIA and we have been asked as a Government to assist; we have a Cabinet subcommittee which is chaired by Dr. Saith and includes several Cabinet Ministers, and we are on a day-to-day basis doing what we feel is in the national interest and we are making this information public as and when required. We had a press conference at 2 o'clock today and if you allow me to finish before 7.00 p.m. you would get an update on what is happening there. [*Interruption*]

Sen. Prof. Ramchand: Madam President, what I did was to take the complaints of the pilots and convert into a general question about the composition of the board—

Hon. F. Khan: I have not finished.

Sen. Prof. Ramchand: Oh, sorry.

Hon. F. Khan: Madam President, in response to Sen. Prof. Ramchand, I would have to do some reading here—because I may be slightly ahead of him in my knowledge of some of these things but it is still not my area of expertise. The Civil Aviation Authority approved revised flight and duty time limitation schedules for BWIA. This was done in consultation with the pilots' union, which is Trinidad's Airlines Pilots' Association (TALPA). The old scheme was based on a 50-year-old United Kingdom standard that does not take into account the

technology advancement in aviation today. The new scheme falls within the guidelines of the United States National Aeronautic and Space Administration (NASA) on flight crew fatigue, which is the same point the goodly Senator mentioned. It takes into consideration NASA's guidelines on flight crew fatigue. The new scheme generally falls in line with those that are currently operating in the United States of America, in Jamaica and Australia. It is slightly more restrictive than those operating in the Canadian scheme.

I wish to inform this honourable Senate that all the regulations are based on ICAO standards. All stakeholders including airlines and TALPA have been consulted on these regulations and were invited for their comments. Again, the Civil Aviation Authority would continue to consult without fear of offending anybody. Just as in the days on the port when men used to be sleeping and claiming overtime, because that was the port's regulations. We have cleaned up that over the years so that today the port is more efficient.

There are some very, very antiquated things with those pilots and all the airlines in the world have modernized some of those times scheduling because the whole system needs to be modernized. So it is untenable to have eight aircraft and 180 pilots because of certain regulations in terms of timing of flights. All this is doing, through the Civil Aviation Authority, which is totally independent and totally *au courant* with modern guidelines and regulations, is that they are regularizing some of these old systems.

Finally, with respect to the issue of affirmative and negative resolution, I want to make an appeal to the Opposition and the Independent Senators in this regard that as we modernize the world we are saying here that we are not doing this for Trinidad and Tobago, we are doing this because the FAA and ICAO say, "If you do not comply with these regulations you cannot fly into these metropolitan areas because of the oversight system." It is just as FTAA that would put guidelines on us and say, "Free Trade Area of the Americas". Once we are signatory to free trade in whatsoever convention Mr. Gift would have signed in his time, we have to live with that. It may hurt some as well as it may not hurt some but as the world globalizes—and we are party to some of these conventions—there are times when we may seem to feel that it is "mashing your corn" a little; your sovereignty, as it were. That is all part of the globalization process. The FAA and the ICAO are very adamant that these regulations must be subject to negative resolution.

Personally, we as a Government, or the Ministry of Works and Transport, or the civil aviation have no intrinsic preference of whether it should be negative or affirmative. As a person who believes in democracy and to the rule of Parliament

and the rule of law, and as a Member of Parliament myself who faced the polls with very trying circumstances—Sen. Wade Mark, I won fair and square. Because I lost in 2000, I stayed on the ground and I fought them; in 2001, I stayed on the ground and I fought them; and the third time the people said, "Well, listen, this is a good guy; this man is really serious to build Ortoire/Mayaro and the results are there to show. So I have no vested interest in this thing. The fact is that while we would have preferred as a people, as a country and as a Parliament that these regulations be subject to affirmative resolution, the international agencies and the signatories to the Convention, which are FAA and ICAO, are very, very adamant that it has to be subject to negative resolution. They did not even want it to come to Parliament, they wanted the DGCA alone to draft it and enforce the regulations. We have compromised and while I sense the sentiments, especially from the Opposition Benches, they would have preferred an affirmative resolution, as a country our hands are tied and it is in that regard I humbly seek your support—because we are not doing this for any motive that is partisan to the Government as distinct to the Opposition.

Madam President, I hope I have cleared up the issues that were raised during this debate—

Sen. King: Madam President, I just have one question for the hon. Minister and I think it needs clarification. It was mentioned during the debate that the Chairman of the authority is also an employed pilot and we are asking whether there is not a conflict of interest that could arise and how are we going to deal with that?

Hon. F. Khan: Madam President, what the Senator is saying is totally correct. Again, I cast no aspersions on anyone. The current Chairman of the Civil Aviation Authority has a wide range of experience in civil aviation matters, and he is also an attorney and a BWIA pilot. Sen. Prof. Ramchand was right; there is really a conflict of interest in that regard. Just for the record, that board was appointed by the UNC, and as part of this whole restructuring process we would be commissioning a new board of the Civil Aviation Authority. The board's committee of Cabinet has already appointed a new board and it would be going to Cabinet for ratification on Thursday and that matter would be addressed. [*Desk thumping*]

I hope I have covered to the partial satisfaction of those who have joined in this debate. It has also been a pleasure to come to the Upper House to pilot legislation on behalf of the Government and specifically the Ministry of Works and Transport.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4.

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

Madam Chairman: We have an amendment to clause 4.

Sen. Amb. Thomas: Madam Chairman, there is an amendment in relation to clause 4 in light of the comments that we have heard from two Senators, that in the need for safety regulations we should err on the side of an abundance of caution. So I am suggesting that new regulations that are made should be subject to an affirmative resolution. So, I am, in fact, proposing an amendment, as stated here, for the proposed 7(d), which has been circulated as far as I am aware.

Madam Chairman: Are you replacing the present (d) with this (d)?

Sen. Amb. Thomas: No, I am making a small addition to the present (d).

Madam Chairman: He is adding an (e). The numbering is wrong.

Sen. Amb. Thomas: No, Madam Chairman, I am adding a phrase to part of clause (d).

Madam Chairman: Could you read what you want the amended clause to read as? Please, Senators, could you listen to this?

Sen. Amb. Thomas: Maybe I should read the entire (d).

Madam Chairman: Yes, that is what I mean.

Sen. Amb. Thomas: It says:

> "make rules and regulations prescribing all matters that are necessary, required or permitted by this Act to be prescribed, but any regulations made shall be subject to affirmative resolution of Parliament."

Madam Chairman: Any comments on this?

Sen. Mark: We support that.

Madam Chairman: Any more comments?

Sen. Prof. Ramchand: Madam Chairman, would you give us a chance to express a little sovereignty on the economy considering that we are being bullied in the other place to go the other way so we could flatter ourselves in putting this in.

Sen. Mark: Madam Chairman, I am wondering if the hon. Minister does not get what the FAA told him, would the United States of America invade Trinidad and Tobago?

Sen. Morean: No, may I just say that Sen. Mark referred to my stance when this Bill was first debated with respect to the regulations, and the fact that I felt it should have been affirmative resolution. Now, the fact is that the regulations that are being made deal with substantive matters in some cases, and at the time I felt, and to some extent I still do feel, that it should be affirmative. However, being on this side now and in the seat and seeing the difficulties we have, with respect to our oversight procedures, I am forced to agree that at this point we need to have these regulations as fast as possible. Now the regulations are very voluminous; we have 13 sets of regulations and all are about the same size.

Now if you look at the FAA regulations you would see that there are big books and every year those books are changed; because every year regulations are made, and as you go along things have to be changed. And if every time we have to go through these things we have to go through a debate—as we have done today—we are not going anywhere fast. So that out of expediency I think we have to agree that we would have to go with the negative resolution. This is why I remained silent on that, because at the time when I looked at it this is how I felt, but now that I am seeing how the thing has to work, I am convinced that this is the only way we can go.

Sen. Mark: Madam Chairman, I understand that even in the United States of America these regulations are subject to congressional approval. So I do not understand how the FAA—

Sen. Morean: No, no, the FAA is a body; they sit and make regulations for the oversight of the aviation industry. That is what we are supposed to do. In fact, the reason for the downgrading of our system is not so much our facilities but the fact that we have no proper oversight procedures.

Mr. Khan: Madam Chairman, 99 per cent of the issues are extremely technical issues and do not lend themselves to a parliamentary debate in its truest sense.

Sen. Morean: It is very technical. That is a fact.

Sen. Seetahal: Madam Chairman, through you, with respect to the proposed amendment by Sen. Amb. Thomas and that (d), we are talking about two sets of regulations in respect of the different resolutions. This one that we are currently dealing with would be regulations to be made by the authority, and the other regulations at 33, which come under the rubric "regulation of a navigation," those are regulations that are to be made by the authority with the approval of the hon. Minister. That is where there is the whole list of regulations.

I could understand what the Attorney General is saying about the voluminous nature of those regulations, but what I want to know is, why is it necessary—if we already have the authority making regulations and having a wide power under 33(1)(p)—to make regulations for all other matters, why is it necessary to come with any other power under 7(d)? Why are we giving them another power to make regulations when they already have powers? Because this is what is creating the problem that we are now having with the suggestion that in this case we go by way of affirmative resolution, and in the next case we do not. Because (d) just says the authority would have the power to "make rules and regulations prescribing all matters that are necessary, required or permitted by this Act to be prescribed".

Section 33(1)(p) says;

> "For the purpose of carrying out and giving effect to the Chicago Convention, any other related Protocols the Authority shall make Regulations for any other matters."

Is it what we are talking about in (d), some other local kind of rules? If it is so, then somebody should say something so that we would know what is being dealt with.

Sen. Morean: Actually clause 33(3) is dealing with your air navigation regulations. That is different from the regulations that you are speaking about in clause 7.

Sen. Seetahal: Which would be the local kind of thing like the pilots' hours?

Sen. Morean: That is the Director of Civil Aviation (DCA).

Sen. Seetahal: No, this is the Authority. Section 7 says: "Without limiting the generality of section 6, the Authority may"—So there should be no problem with making that one "subject to the affirmative resolution" because these would not be the books.

7.00 p.m.

Sen. Morean: I am being told by the technocrats that these regulations refer to different sets of matters that are to be prescribed in section 37.

> "For the purpose of the issue of any licence or certificate under paragraphs (1)(a), (b), (c), (d) and (e), the Director General shall have access by an applicant or the holder of a licence or certificate at any place and time to conduct any tests or inspections in order to determine that their operations are conducted in accordance with prescribed safety or other standards."

So there are matters that have to be prescribed and that is what clause 7 is dealing with, such powers of the Director General. So the Director General may make rules and regulations prescribing all matters that are necessarily required or permitted by this Act to be prescribed.

Sen. Seetahal: What I understand by that is that the authority was making the rules and regulations, and the Director General would be using that as a yardstick against which he measures whether to give the licence. So he is never making the rules and regulations.

If one looks at the clause, it gives the authority the power to make and prescribe rules so that would be standards, but it also says all matters that are necessarily required or permitted by this Act. Anything you think that the Act needs apart from the navigation thing, which is already taken care of under section 36. So the Authority can make these regulations and those would be what we would call the normal things. One would not ordinarily deal with such things as sleeping hours and standards.

Sen. Prof. Ramchand: I wonder if we could find out whether the duty things and flying things are controlled by 7(d)?

Sen. Morean: No. This is like if you should have standards for testing engines, that sort of thing, so that you know what your standards are and that would be prescribed.

Sen. Prof. Ramchand: It is not that it is bulky but it is very technical.

Sen. Morean: Yes.

Sen. Prof. Ramchand: I do not know if Sen. Amb. Thomas is satisfied.

Sen. Amb. Thomas: Madam Chairman, I would like to get some clarification if we are dealing with very technical matters as the Attorney General has indicated, and I do not believe that Parliament is the place to debate and resolve

these things. I understood this particular paragraph to be addressing questions of changes in pilot schedule.

Sen. Morean: The pilot schedule is 33(3).

Sen. Amb. Thomas: Flight schedules, respirates—

Sen. Morean: No, no, that would not be 7(d). Clause 7(d) would be as we said, like your standards for testing engines.

Sen. Yuille-Williams: Madam Chairman, I would consider all that technical because I do not think that I am competent to talk about flight schedules, resting period for pilots and that type of thing. In fairness to how the whole thing operates, I do not think the Parliament is really the place to make regulations for governing those things.

Sen. Amb. Thomas: Madam Chairman, if it appears that the majority feels otherwise, I would not pursue the amendment.

Madam Chairman: So you withdraw it, Senator?

Sen. Amb. Thomas: Yes.

Sen. Prof. Ramchand: I just want to say for the preservation of inputs of Parliament although the things I read may have been under section 33(3), I am glad I had the opportunity to raise them.

Sen. Mark: Madam Chairman, are we saying that after these amendments the Parliament would have no say whatsoever in these matters? The negative resolution is 40 days, so here we are speaking about a negative resolution and it would still give the Parliament the right to intervene within a 40-day period. So what is the big difference between the affirmative fundamentally speaking? If one goes with the negative there is a 40-day period before the authority can implement. It cannot implement—for instance if we file a motion under the negative resolution for debate, they cannot implement regulations before this debate takes place within a 40-day period. So what is the big difference, Madam Chairman?

Madam Chairman: My understanding is if it is brought here for discussion it would be lost on a technicality. That is what I gather on the whole thing, talking about engines, specifications and those kinds of things.

Sen. Amb. Thomas, what was your decision? Have you withdrawn your amendment?

Sen. Amb. Thomas: Madam Chairman, let me say first of all that I continue to be concerned about the excessive authority and power given to this body in the circumstances to make changes in flight schedules and pilot schedules, et cetera, but I say if the majority does not feel that way, then I am withdrawing the amendment.

Sen. Prof. Ramchand: The authority to change flight schedules is not covered by 7(d), it is covered by 33(3) and there we are compelled to go the way the Bill has it. We do not have a choice over 33(3).

Sen. Amb. Thomas: In that case I withdraw the amendment.

Sen. Seetahal: Can I ask one more question with respect to 7(d)? These regulations would have no one looking at them because in 33 it is subject to the Minister. There is a qualification in 33. My point is that under 33 which appears to be more technical regulations it is stated:

"…the Authority shall with the approval of the Minister make Regulations…"

Section 7 says:

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

The new 7(d) is to make regulations, et cetera, on any matter. Is it the intention of this Parliament to convey to the authority the power to make regulations on anything with no negative resolution, or anything coming before this Parliament? There is no indication you know. It is unfettered powers. I am dealing with section 7(d) now.

Sen. Morean: Those are different types; these are matters that are prescribed. Let us use the example that was given; maintenance procedures. You have an international oversight on that because whatever regulations you have must meet those standards and you cannot deviate anyway. So really what you are doing is going according to the international standards if you want to be under the correct categorization.

Sen. Seetahal: May I say, Madam Chairman, and this is my final word on it, the words:

> "make rules and regulations prescribing all matters that are necessary, required or permitted by this Act to be prescribed."

Are we saying that the words here would ensure that the power would not be abused? That is all I am asking.

Sen. Morean: That is correct because you are not at large; you are restricted.

Sen. Seetahal: Fine, I accept that. Thank you.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

Clause 5.

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

Sen. Seetahal: I do not have any amendments with respect to this clause, but I have asked the question and may I rephrase what I had said earlier. I believe that as it is drafted subject to the Industrial Relations Act (IRA), any bright lawyer can bring this before the court and have this entire section deemed ineffective. Why I say that is because the Industrial Relations Act, section 32(2) says:

> "Subject to this Act, all trade unions that desire to obtain certificate of recognition under this part shall apply to the board in writing."

That is fine and if what is here:

> "…the Public Services Association of Trinidad and Tobago shall be deemed to be the certified recognized majority union…"

then you do not have to go for recognition. But if you have a qualification subject to the IRA, I am advising you, Minister—even though it is not my place to advise you—it means that this section 32 will override that and it is not any deep sort of law, it is basic common sense and it is a basic rule of interpretation. It means this will prevail. This subsection is subject to this, so all you have to do is bring it before the courts and say the Public Services Association (PSA) cannot represent these people. They would not be the recognized union because they have not gone through the process and the section says, "subject to the Industrial Relations Act". It is not the first time these kinds of things have been brought before the court.

Sen. Morean: That is not what "subject to the Industrial Relations Act" means. What that "subject to the Industrial Relations Act" is saying is look here, "PSA, although we give you automatic certification as a result of you being already certified for smooth transition"—and to use the Senator's term "successorship"—"if some other union comes forward for these people and they seek to be certified, then they have that right". That is what that is really saying.

Sen. Seetahal: Madam Attorney General, it would seem to me that the way to achieve that is subject to section 26B and 26C. If that is the intention it is not

achieved by saying "Subject to the Industrial Relations Act". This provision is saying subject to the entire Industrial Relations Act and I am repeating this because we have made bad legislation in this Parliament already and this amendment shows this.

Sen. Morean: Obviously the words "subject to" are relating to certification because it is referring.

Sen. Seetahal: It does not say so.

Sen. Morean: It says:

"…deemed to be the certified recognized majority union under Part III of the Industrial Relations Act…"

Sen. Seetahal: It says subject to the whole Industrial Relations Act, you cannot have one section subject to the whole Act, which means the whole Act will take precedence.

Sen. Morean: Where it would be relevant to the particular section.

Sen. Prof. Deosaran: If I have to vote on this matter, could I express my interpretation and then get something confirmed by the Attorney General?

As I understand, the presentation by the Minister, and with which I have agreed so far, is that you have this phrased in this way so as to guarantee the workers continued representation until perhaps you put it in a worst case scenario. The next day they decide to change, they become subject to the Industrial Relations Act especially under Part III which deals with certification and registration. So you are guaranteeing the workers in the first instance continued representation and you are also guaranteeing them the right to change eventually. Do I have that correct?

Sen. Morean: Yes, and it is reinforced further under section 26C.

Sen. Dr. Kernahan: Madam Chairman, I do not think that is in dispute. The intention is that, and Sen. Prof. Deosaran and the Government agree that is the intention but what Sen. Seetahal is saying, and what I understand from her, the way it is phrased here it is open to interpretation because of the generality in which it cites the Industrial Relations Act. There are two interpretations, she is giving one interpretation and the Government is giving another interpretation and she wants that tightened. That is what I understand. The intention is something else.

Mr. Khan: Madam Chairman, we are really arguing the drafting nitty-gritty. If the drafters say this is the way to put it, so be it.

Sen. Seetahal: What I am saying is in 26A you are basically saying subject to the provisions below—sections 26B and 26C So that is what you say: "Subject to sections 26B and 26C" and delete the words "the Industrial Relations Act" because we do not need that again and you are creating confusion by repeating it.

Sen. Morean: We have to be clear. What we are dealing with is the Industrial Relations Act and it is Part III of the Act with which we are really dealing. In other words we are dealing with certification and recognition and while we are giving you a certain right, we are mindful of our enshrined provisions in the Constitution and we are making protection for that.

Sen. Seetahal: May I go over this one more time? Hear what is said here.

> "Subject to the Industrial Relations Act, the Public Services Association of Trinidad and Tobago shall be deemed to be the certified recognized majority union under Part III of the Industrial Relations Act for the bargaining unit comprising the monthly paid…"

So basically you have there that it is under Part III of the Industrial Relations Act. You do not need to say Industrial Relations Act at the top. Section 26B in effect is saying that the Public Services Association would be the union for two years unless you get permission from the court. So all you need to say is subject to section 26B—that is what you are already saying—that the PSA would be the certified union in accordance with, because you are deeming it in accordance with the Industrial Relations Act and saying that it is subject to.

However, the people will have their rights because they can come under sections 26B and 26C and apply. That is my understanding of it and I think it is everyone's understanding. When you introduce the words "subject to the Industrial Relations Act", then you are creating a situation where you are saying that the provisions I have read take precedence.

Sen. Mark: Madam Chairman, I am wondering if the PSA had any input in this. Were they consulted? I want to make the point that drafters do not make the laws, it is we who make the laws. So this thing that drafters seem to be infallible and whatever they say is right, I want to make it clear at the end of the day if we go wrong in this Parliament we are to be blamed. The drafters are there to guide us.

Sen. Morean: Let me answer that.

Sen. Mark: Madam Chairman, I have a point to make before the Attorney General replies. I am wondering if the PSA is not going to be disadvantaged. We

are saying that the PSA, which has been the recognized majority union for these workers for the last 30 years is now going to be subject to a two-year period pending—for instance, when one looks at what we had proposed for the daily-rated workers, this is as for life. In other words, until the workers decide, there is no two-year period here. So what I am saying, there has been no difficulty, from what we have heard so far from the National Union of Government and Federated Workers (NUGFW), insofar as these amendments are concerned.

Why do we want to change this around that could cause some difficulty for the very union we are trying to protect? The union could be in trouble based on what Sen. Seetahal is saying because we have already begun to see different interpretations. The Attorney General has one interpretation, the drafters seem to have a second set of interpretations, so if it has started here one can imagine where it could end. We just want to make sure whatever we do, it is done right so that the union and its members could be properly protected. That is what we want to ensure.

Sen. Prof. Ramchand: Madam Chairman, Sen. Mark is an industrial person, but I would have thought that if—well, I agree with Sen. Seetahal that if section 26B would not defeat what is intended, and since it is so precise and unambiguous, what is the problem with going with it? Why go for this broad thing, the Industrial Relations Act?

To return to what Sen. Mark is saying, I do not feel that the PSA is disadvantaged because all they are saying is if after two years another union comes up they will always have the right to say that they challenge the PSA. Even before the two years, you just have to go to a court, but I think if the Minister, the Attorney General and the drafters are satisfied that section 26B achieves what they want to achieve it seems to be cleaner and leaner.

Sen. Morean: Section 26B is also necessary because it is a balancing section. It has given PSA a certain preferred position and in section 26B you are saying there can be a challenge on condition.

Sen. Dr. McKenzie: Madam Chairman, when the hon. Minister was explaining why we have these three new sections introduced under clause 5, he said that the original Act catered for daily-paid people. Why do we have to put in three new sections instead of just adding to the one; "monthly-paid employees and their respective union" or whatever?

Mr. Khan: The Act to which I was referring was the Regional Health Authorities Act, but this is totally new.

Sen. Dr. McKenzie: Okay.

Sen. Seetahal: When you mentioned the problems with the Industrial Relations Act earlier on, you quoted a section which said, subject to any written law and then you read the rest and you said there was a problem and you were advised that whatever the union was that was the majority could not gain that majority because of how it was drafted. I would think the reason that was so would be because it said subject to any written law. So any other law would overtake that, and I think this is something which, whoever is in drafting, should take that into account because there are many matters that come up every day and many times, many of us would be dealing with interpretation of statutes. I know I have, and these kinds of things are taken for granted. The words "subject to" mean that the other thing overtakes and overrules. That is my last point.

Mr. Khan: Sen. Seetahal, your point seems to be that our intent is to give successorship to the PSA, but still not trample on the constitutional rights of workers to join a union of their choice.

Sen. Seetahal: That was my original point.

Mr. Khan: You are saying that by stating subject to the Industrial Relations Act, which states that the only way to become recognized is by applying to the Registration Recognition and Certification Board that some smart lawyer—and there are very few out there—could go to the court and say because this is subject to the Industrial Relations Act, and the fact that PSA did not go for a specific recognition under the Act for the Civil Aviation Authority, this whole thing seems to be null and void.

Sen. Seetahal: If you had said notwithstanding then it would make sense. But "subject to"—they are two opposites: "notwithstanding" and "subject to".

Sen. Morean: The word "notwithstanding" is excluding something.

Sen. Prof. Ramchand: Why can we not say, "subject to section 26B"?

Sen. Morean: Because section 26B is something else. All that is part and it would necessarily be subject to section 26B. If you are in section 26A and below you have 26B and 26C they must relate.

Sen. Prof. Ramchand: Well, just say the Public Services Association shall be deemed to be certified and then come with 26B.

Sen. King: Yes, Madam Chairman, that was the suggestion I was going to make. Just start the paragraph with the Public Services Association.

Sen. Morean: You see, there is the question of certification under the Act. We are showing that we are acknowledging the question of certification under Part III of the Act.

Sen. King: Madam Chairman, I was saying that if we delete the words "Subject to the Industrial Relations Act" we get all that we want within that whole clause.

Sen. Mark: Madam Chairman, we want to get this right and we do not want to do anything that is going to disadvantage—

Sen. D. Montano: Madam Chairman, as there is a bit of a lull while they are consulting, I would like to say that I was part of the process when this was being drafted and what I recall was that there were a barrage of lawyers. The PSA's attorneys were an integral part of the process and we hired attorneys outside of the Government to be a part of the process and to advise us, as well as the lawyers you see here. The result was what we came up with and a lot of the arguments that are being made here were made when the Bill was being discussed and the consensus of legal opinion—even though I did not fully understand it—was that what is here is the best thing.

Now, we are not lawyers, we are civilians and, therefore, we have to take legal advice, and drafting is a very special skill and the advice we had received from all was that this is what was going to work. It is not a simple issue.

Sen. Prof. Ramchand: But common sense is telling you that you are putting this whole matter subject to the total Industrial Relations Act. [*Interruption*]

Sen. D. Montano: If you had seen the original wording it made a lot of common sense, yet when you heard the legal arguments they destroyed it and it was distilled and distilled and distilled.

Sen. Prof. Ramchand: It was not distilled enough.

Sen. Smith: Madam Chairman, if we have to be treated with that level of contempt, then they should have just gone ahead with all the barrage of lawyers and all the technocrats. If something comes here for us to discuss and we are being told about the level of people who drafted it, what is all the fuss about? We must just rubber-stamp it?

Madam Chairman: I think you misunderstood the Senator.

Sen. Smith: No, I did not misunderstand, Madam Chairman. What does he mean by saying the level of lawyers and the level of people? We are not lawyers;

that is what I am being told. So it means we must rubber-stamp what the lawyers do and after we do that and there is some flaw in the legislation and some lawyer goes to court and mash it up, then we look bad.

Sen. Morean: I was just responding to Sen. Prof. Ramchand with respect to section 26B. When we introduced that, subject to the Industrial Relations Act—now there is a process for recognition and certification—that 26B is also subject to the Industrial Relations Act because 26B follows from 26A.

Sen. Prof. Ramchand: Since 26B follows from A, the question we are now asking is do you need section 26A to say "subject to the Industrial Relations Act"?

Sen. Morean: If the words, "Subject to the Industrial Relations Act" were not there, we would be saying:

> "The Public Services Association of Trinidad and Tobago shall be deemed to be the certified recognized majority union under Part III of the Industrial Relations Act for the bargaining unit…"

Sen. Prof. Ramchand: Yes.

Sen. Morean: Then we move on.

> "26B An application for certification of recognition under Part III of the Industrial Relations Act shall not be entertained or proceeded with where the application is made earlier than two years from the date…"

Now the tie-in here is that there is a procedure under the provisions of the Act for applying for certification and we are saying subject to that procedure we are doing this, and then we take away a little bit because we are giving others to come in after the two-year period. We have given them a sort of moratorium where they cannot be challenged. That is what we have put there.

Sen. Seetahal: Madam Attorney General, that is notwithstanding. That is what you are really saying, not subject to the procedure in the Industrial Relations Act. You are saying despite the procedure.

Sen. Morean: The word "notwithstanding" has a different meaning.

Sen. Seetahal: I know it does. That is what I am saying but you are telling me it is what you mean.

Sen. Morean: If you say notwithstanding, what you are saying is that you are ignoring those provisions.

Sen. Seetahal: That is what you are saying.

Sen. Morean: That is what you are saying, but we are not saying that.

Sen. Seetahal: What you are saying is, despite section 32, the PSA is deemed. That is what you are saying. The words "despite" and "notwithstanding" in the dictionary may have the same meaning, the words "subject to" do not have the same meaning. That is what I am saying, and section 26B now says that even though you have said despite, you are saying under section 26 and saying it is okay, you can still apply in two years. I do not see that there is a mystery.

Sen. Morean: I am saying if we say notwithstanding, we cannot bring in section 26B. It cannot be put in.

Sen. Prof. Deosaran: Could the Attorney General explain this for me, please? "Subject to the Industrial Relations Act" is how section 26A begins. Is that put in there to accommodate section 26B?

Sen. Morean: It is, that is what I am saying.

Sen. Prof. Deosaran: If it were not there, would section 26B be otherwise properly accommodated without that?

Sen. Morean: It would not be properly there. In fact, we would have to take it out.

Sen. Mark: Madam Chairman, may I suggest to the hon. Minister that having regard to the various interpretations we are receiving this evening, rather than take a decision that could work either to the advantage or disadvantage at the end of the day, we want to put it right. At this time we are not too sure that we are putting it right.

Could we not, through the Minister, pause for a moment to reflect on it or do you want to go through regardless of the consequences? We would not be able to support it because we have our reservations and we want to make sure that we have it right.

Mr. Khan: Madam Chairman, and to the Independent Senators especially, the issue is that in layman's language when I was speaking and when several Senators were debating, in our own way of putting English, we agree with what we want, there is no discordance as to what we are trying to achieve and I know for a fact that most of the Independent Benches agree with us, even the Opposition Bench has agreed with certain parts of it. The issue is whether the drafting truly reflects what we want to do.

What we are saying is that we have gone through a long and tedious process of drafting and while there may be slightly different opinions on the drafting, we

would want to go with what we have because it is we who have drafted it in consultation with a battery of lawyers and the Chief Parliamentary Counsel because we feel it reflects what we want and if you agree with what we want we are asking you to accept the drafting for what it is worth, even though you may have some intrinsic risk inherent in the drafting, otherwise we cannot sort it out at all because legal opinion is always legal opinion.

Sen. Prof. Ramchand: Last suggestion. How about putting "subject to Part III of the Industrial Relations Act"?

Madam Chairman: Can we give them a chance to look at it and then return to clause 5? May we move on to clause 6?

Clause 6 ordered to stand part of the Bill.

Clause 7.

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

Sen. Mark: We support affirmative, we do not support negative. I am proposing that the clause remains as is in the original Act.

Sen. Prof. Ramchand: Madam Chairman, I think if as the Minister has said, this is mandatory, the Federal Aviation Administration (FAA) requires it, we cannot be upgraded if we do not do it, and we are under compulsion, well then we have no choice.

Sen. Mark: I am proposing that we delete clause 7(b).

Question put and agreed to.

Clause 7 ordered to stand part of the Bill.

Clauses 8 to 15 ordered to stand part of the Bill.

Clause 16.

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

Sen. Prof. Ramchand: Madam Chairman, I am not opposing it but Sen. Amb. Thomas pointed out to me that paragraph (d) is being deleted because it is in conflict with Part IV 13(1).

Madam Chairman: We are on clause 16.

Sen. Prof. Ramchand: Yes. I have gone to the Schedule.

Madam Chairman: We are not on the Schedule.

Sen. Prof. Ramchand: Are we not on clause 16?

Madam Chairman: Yes.

Sen. Prof. Ramchand: The First Schedule of the Act is amended so I have gone to the First Schedule and I can understand why (d) is being deleted because it is a mistake. What we really meant was Part IV 13(1), but I am in some doubt now about the President appointing the members of the Board. That does not mean the President in his own discretion, does it?

Mr. Khan: The President gives the instrument of appointment.

Sen. Prof. Ramchand: So it really means that the Cabinet chooses?

Mr. Khan: Yes.

Question put and agreed to.

Clause 16 ordered to stand part of the Bill.

Clause 17 ordered to stand part of the Bill.

Madam Chairman: May we return to clause 5 now?

Sen. Prof. Ramchand: Madam Chairman, would it be okay after we do clause 5 for me to ask a question again about the First Schedule or can I ask it now?

Madam Chairman: Well, we have finished it, but I see no harm in asking the question.

Sen. Prof. Ramchand: I suggested in my contribution that I wish there could be more technical people on the Board. I cannot make a specific suggestion because I do not know whom I want there but I would really like to feel that there were more technically qualified people in aviation.

Mr. Khan: Well, yes and no. The issue like you are saying, it is only persons who are expert in electricity and electrical engineering could sit on the Trinidad and Tobago Electricity Commission's Board. The point is that the Directorate General of Civil Aviation (DGCA) who runs the authority is a technocrat and he has a battery of technocrats running civil aviation. This is a non-executive board, which is managing the overall affairs just like any other governing board of a company; private, state or statutory authority and will need specific skills to run it. It does not really justify overloading it with the skill sets that are intrinsic in the management and the operation of the authority.

Sen. Prof. Ramchand: But it does give the Director General an opening to bramble the rest of the board. I would like to feel there were two or three persons who could challenge him on the technical ground.

Mr. Khan: When you see the new board you will be happy.

Clause 5 reintroduced.

Sen. Morean: I do not think we want to make any changes because as far as the phrase "Subject to the Industrial Relations Act" we are in favour of retaining it because of the fact that it protects our position against constitutional challenge, and secondly, in the event of any changes to the Act, we would still be covered by whatever changes as a result of this section by the Industrial Relations Act.

Sen. Mark: Madam Chairman, based on the various interpretations we have had we are not too sure that by the end of the day the union's position would be properly preserved and in those circumstances, if the Government insists that this is its position, we want to reserve ours so we would not be able to support what they are advancing.

Madam Chairman: Does anyone else want to make a comment?

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

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

Senate resumed.

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

ADJOURNMENT

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, I beg to move that this Senate do now adjourn to Tuesday, June 03, 2003 at 1.30 p.m. I also want to remind Senators that it would be Private Members' Day.

Greetings
(Indian Arrival Day)

Sen. Wade Mark: Madam President, next Friday as you know, is Indian Arrival Day so I would like on behalf of the United National Congress to extend to all citizens of this country a wonderful, peaceful and happy day because there are going to be a number of celebrations throughout the country.

I also take this opportunity to extend to Trinidadians and Tobagonians of East Indian descent in particular a very happy, wonderful and peaceful Indian Arrival Day. I also hope that as we celebrate Indian Arrival Day that we can put our heads together and in particular, the Government would be able to do its best to ensure that there is unity, incorporation, and equality amongst all the people, particularly as it relates to the distribution of the resources of the State.

I wish the community of Trinidad and Tobago, and in particular the Indian population, a happy and peaceful Indian Arrival Day.

Thank you.

Sen. Dr. Eastlyn McKenzie: Madam President, on behalf of all of us on the Independent Benches, I would like to extend to the East Indian community in particular, and the citizens of Trinidad and Tobago in general our warmest and best wishes for a happy and peaceful Indian Arrival Day.

We hope that our children would learn from the resilience and contributions of their fore parents, and that would take us into new years with the hope and spirit that together we can build this country and make it really great. We hope that the experiences we would have had together as a people of Trinidad and Tobago would help us to understand each other more and be able to cooperate with each other in the building of this country.

Happy Indian Arrival Day to all of Trinidad and Tobago and may I tell you that in Tobago, although we do not have a very big East Indian community we do celebrate the day together.

Happy Indian Arrival Day!

The Minister of Community Development and Gender Affairs (Sen. The Hon. Joan Yuille-Williams): Madam President, let me assure Sen. Dr. McKenzie that when you look at the ethnic population of Tobago there might not have been many East Indians, but you would have a population which would have arrived and I hope you would find some solace and enjoy that celebration as all the other races in Trinidad will do.

So on behalf of the Senators on this side we wish the entire population of Trinidad and Tobago to enjoy that holiday on Friday, May 30, 2003. We have all arrived; we have all lived together for so many years and would continue to do so, and we have to look at the significance of what is happening on that particular day.

Whereas at this time you might have heard it by a particular ethnic group, a particular community, I want us to all feel very comfortable. As a Government, we wish everybody to be very comfortable in Trinidad and Tobago. It is a place where all together dwell together: all races, all creeds live together in unity.

I therefore express our sincerest hope that we be all much stronger as a people and enjoy the day and, Madam President, I also want to wish you a very special day on Friday, May 30, 2003.

Thank you.

Madam President: Hon. Senators, I join with Senators in the sentiments expressed in wishing Senators and citizens of Trinidad and Tobago a very happy and peaceful Indian Arrival Day.

I have been involved in a few of the activities during the week, and following on what Sen. Mark said about the integration, I have been very impressed to see the number of people of other races, children who have been singing Indian songs and bhajans and participating in the Indian programme and I have no doubt that we are well on the way.

I wish all of you a happy day and a pleasant weekend. I suppose that many Trinidadians would be going to Tobago for that weekend, Sen. Dr. McKenzie.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.55 p.m.