

*Leave of Absence**Tuesday, April 27, 2004***SENATE***Tuesday, April 27, 2004*

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 Senators The Hon. Howard Chin Lee, The Hon. Conrad Enill, The Hon. Christine Sahadeo and Roy Augustus from today's sitting of the Senate.

SENATORS' APPOINTMENT

Madam President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: MRS. JOAN HACKSHAW-MARSLIN

WHEREAS Senator Howard Chin Lee 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, JOAN HACKSHAW-MARSLIN, to be temporarily a member of the Senate, with effect from 27th April, 2004 and continuing during the absence from Trinidad and Tobago of the said Senator Howard Chin Lee.

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 April, 2004.”

Senators' Appointment
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“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., 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 April, 2004 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 April, 2004.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency Professor GEORGE MAXWELL RICHARDS, T.C., C.M.T., Ph.D., President and Commander-in-Chief of the Republic of Trinidad and Tobago.

/s/ G. Richards
President.

TO: DR. TIM D. GOPEESINGH

WHEREAS Senator Roy Augustus 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 Leader of the

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Opposition 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, TIM D. GOPEESINGH, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Roy Augustus.

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 26th day of April, 2004."

OATH OF ALLEGIANCE

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

Joan Hackshaw-Marslin, Magna Williams-Smith, Dr. Tim Gopeesingh.

PETITION

Child Welfare League of Trinidad and Tobago Incorporated

The Minister in the Office of the Prime Minister, Social Services Delivery (Sen. The Hon. Christine Kangaloo): Madam President, I have the honour to present the petition on behalf of the Child Welfare League of Trinidad and Tobago Incorporated.

I now ask that the Clerk be permitted to read the petition.

Petition read.

Question put and agreed to, That the petition be granted.

WRITTEN ANSWERS TO QUESTIONS

The following questions were asked by Sen. Wade Mark:

**Germanisher Lloyd Report
(Fantuzzi Crane)**

14. Could the hon. Minister of Trade and Industry provide the Senate with the following:

- (i) copies of the technical evaluation report issued to the PLIPDECO management by Incorrtech; and
- (ii) copies of the Germanisher Lloyd Report regarding the inspecting of the Fantuzzi crane?

**Report of Investigation
(New Gantry Crane)**

23. Could the hon. Minister of Trade and Industry provide the Senate with a copy of the report of the investigations conducted by the local Mechanical Engineering Consultancy Firm on the new multi-million dollar Gantry crane at PLIPDECO?

**New Gantry Crane
(Purchase of)**

24. A. Is the hon. Minister of Trade and Industry aware that the purchase of the new Gantry crane ordered by the Board of PLIPDECO was made against the advice of many senior managers and qualified technocrats?
- B. Could the Minister provide the Senate with the relevant reports, documents and feasibility studies which informed the decision of the Chairman and Board of Directors of PLIPDECO in finally deciding to order the new Gantry crane from a company in Italy?

Vide end of sitting for written answers.

**DEFINITE URGENT MATTER
(LEAVE)**

Demolition of Homes

Madam President: Hon. Senators, the matter that was brought to my attention by Sen. Baksh was not allowed.

Sen. Baksh, as I advised you, you could bring that matter under Standing Order No. 11 and it would then be on the adjournment of the Senate.

Sen. Baksh: Thank you, Madam President.

Sen. R. Montano: Madam President, are you not supposed to tell us what the matter was? Are we not supposed to know what was the matter brought by Sen. Baksh?

Madam President: No, not as far as I know.

Sen. R. Montano: Madam President, on a point of order. It strikes me that in the past you have read what the matter was. It seems to me that this should be done so at least the Senate would know what it is all about. My memory is telling me that it was done in the past.

Madam President: I do not remember having read it in the past.

[Discussion with Clerk of the Senate]

Madam President: As far as I know, I do not remember ever reading, but I will let you know what the matter was. It was:

“The demolition of 40 homes resulting in the destruction of all the sustainable essentials of life inclusive of food, clothing, shelter, medication and all other earthly possessions.”

SUB JUDICE CONVENTION AND RULES

Madam President: Hon. Senators, before we move on you would remember at the last sitting there was some question about the Motion being debated being sub judice—

Sen. R. Montano: Madam President, before your ruling would you hear me?

Madam President: No.

Sen. R. Montano: Are you making a ruling?

Madam President: I am, yes.

Sen. R. Montano: Before your ruling, Madam President, it is well known that you met with two government Ministers in your office to discuss this matter—

Madam President: Please, Senator!

Sen. R. Montano:—so that at least would you meet with us before you make your ruling?

[Madam President pounds the Gavel]

Madam President: I did not meet with any government Minister to discuss this matter. I did not! The two Ministers whom you assumed came to meet with me at the last sitting, I did not meet with them. I told them that I was not meeting with them on this matter. In future get your facts straight, Senator.

Hon. Senators, I have looked again at the Motion; I have looked at the matter that is supposed to be before the courts; I have also looked at the Sub Judice Convention and I just want to read some of it because it is important that we understand some of this.

“The application of the Sub Judice Convention requires balancing the undoubted right of the freedom of speech of the legislature to discuss any

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matter it pleases and the rights of individuals involved in litigation and the rights of the court from exercising their function.

A fundamental feature of the Constitution is that the Parliament and the courts should keep to their appropriate functions.”

Now the sub judice rule states:

“No matter awaiting or under adjudication in a court of law should be brought forward in motions, debates, questions, or supplementary questions.”

However, the ruling has some important qualifications: (a), the rule is subject to the discretion of the Chair and (b), the rule is subject to the right of the Senate to legislate on any matter. I will not go through the whole ruling I have here, except to say that I have looked at both things and I will allow the debate to continue. However, I ask Members, please do not make reference to any matter that is before the court.

Sen. Mark, I think you were speaking; please continue. I think you spoke for 35 minutes so you have 10 minutes left.

**EQUAL OPPORTUNITY LEGISLATION
(PROCLAMATION)**

[Second Day]

Order read for resuming adjourned debate on question [March 23, 2004]:

Question again proposed.

Be it resolved that the Government takes immediate steps to have the Equal Opportunity legislation proclaimed and fully effected in the Republic of Trinidad and Tobago. [*Sen. W. Mark*]

Sen. W. Mark: Thank you very much, Madam President. This Motion on equal opportunity legislation is very important to this nation, particularly at this historical juncture. As I indicated in my previous contribution, the United National Congress passed this law without the—

Madam President: [*Inaudible*] in fact you have—

Sen. W. Mark: I understood what you meant.

Madam President: You have?

Sen. W. Mark: Yes.

Madam President: Okay.

Sen. W. Mark: Madam President, this law was passed in both Houses of Parliament without the support of the then Opposition PNM. We had recognized then and long before that there was a mechanism required for citizens of this country who felt that they had a grievance or who felt that they were being discriminated against, particularly in light of the plurality of our society and, therefore, there was a need for such a mechanism and institution.

For some reason known to the then Opposition PNM, they voted against the measure, but we passed the measure. It was passed by both Houses of Parliament, assented to by the President, and then proclaimed. Madam President, for some reason, again, known to the Government—the Government that is now in office—it has refused to implement and to translate that legislation into some degree of action so that ordinary citizens could access justice in this land.

Madam President, after some 28 months in office and two attorneys general, we are still to have this particular Act effected. Promises were made before this honourable Senate, as you would recall in August 2003, when the former Attorney General promised to this Parliament that by next month—which would have been September 2003—this Act would have been effected. Madam President, it is a couple of months after; that former Attorney General is in exile in London as the High Commissioner, and we are yet to have the Equal Opportunity Act effected by the Attorney General who is sitting before us today.

It is absolutely clear in this country that because of abuse of power we have seen manifested by the present regime, the population is calling for a mechanism of protection. They are calling and crying out for some institution that they could go to in order to, at least, advance their grievances, whatever the complexion, that would have fallen under the framework of the Freedom of Information Act.

Madam President, you would know that discrimination comes in various forms. Just recently I listened to a programme on one of the radio stations and an individual was highlighting the plight of a youth from Laventille. He has six O'levels and two A'levels and he has a degree. He has applied to some institution in Port of Spain to get a job but he did not even receive an acknowledgement, Madam President. However, when he changed his address to Valsayn—that is in the NUGFW estate, not even “bourgeois” Valsayn, working class Valsayn—he was acknowledged. He received an acknowledgement and was called in for an interview and he got the job. So merely because of where you live this society discriminates against you.

Madam President, when we talk about discrimination it does not necessarily mean we are talking about racial discrimination, that is an element of it as well. We are talking about discrimination based on region. Just because this chap is from Laventille he was not acknowledged. Why is the Government of Trinidad and Tobago refusing to implement the Equal Opportunity Act? In any modernized society and civilization that is a very important plank. If you are talking about effecting the measures in our Constitution; if we are talking about the human right of this society; that is a fundamental human right. We, on this side, do not understand why the PNM has refused, consistently, to effect this measure.

Madam President, doctors have been discriminated against. That is a matter that is coming up and we would say more about it later. For instance, we have a particular doctor who took the Government to court and the court ruled that he was the victim of discrimination by this administration, Dr. Colin Furlonge. Discrimination! If it were not for the High Court he would have never become the Acting Chief Medical Officer of the San Fernando General Hospital. [*Desk thumping*] It is the court that came to his rescue, not the Attorney General and not the PNM Government. Madam President, for the PNM, he could have gone to hell! They did not care about him!

Madam President: Mind your language, Senator.

Sen. W. Mark: Sorry, Madam President, I thought you should have been in heaven. This is the kind of situation with which we are faced. Citizens who run afoul of this mad regime are isolated and brutalized; ask Mr. Hubert Alleyne in the matter that is now before the High Court in this country, which is in the newspapers today.

Madam President: [*Inaudible*]

Sen. W. Mark: It was in the newspapers today and I have a right to comment on any matter that is in the newspapers, Madam President but I will not go into the intricacies of any matter.

Madam President: That is what I meant.

Sen. W. Mark: I am not going there, Madam President, I will leave that for another occasion.

Madam President, you had the issue also of the Cabinet of this country discriminating against the Maha Saba in terms of a radio licence; giving it to their friend Louis Lee Sing. That was a matter that the court ruled on as well and they

said it was discriminatory. If you do not have money to take this Government to court—and there are thousands of ordinary citizens who do not have the income to hire a lawyer and there is not enough money in the area of legal aid—“yuh coo-coo cook” under this vicious, evil and criminal government!

Sen. D. Montano: Madam President, on a point of order. I would simply refer you to your ruling of last week. The Senator is completely out of order to impute those motives to any member of the Government. If he is going to malign the Government in that way then he is doing so of all of us on these Benches and that is completely outside the Standing Orders.

Madam President: Yes, I did rule last week that according to the Standing Orders, you could be imputing improper motives when you speak in general terms like that.

2.00 p.m.

Sen. W. Mark: Madam President, if I may, and if a court has ruled that a government discriminated against an institution, the Government of Trinidad and Tobago discriminated against an institution called the Maha Sabha. The Government is made up of all Members of the Cabinet as far as I know. *[Interruption]* You go and tell the court that! The court has ruled but, Madam President, I would not go there. All I can tell you is that there is discrimination on a scale.

Sen. D. Montano: Madam President, to refer again to your ruling of last week, I would ask the Senator to withdraw his statements. That is what was done last week. That is what must be done this week. The Senator must withdraw his statements. The Senator cannot stand and argue your ruling with you.

Sen. W. Mark: Madam President, I have evidence. When you do not have evidence you withdraw. I have evidence and the court said so. What am I withdrawing? What the court says?

Madam President: Senator, just be careful of the words that you are using and continue in that manner without imputing improper motives, or using the kinds of descriptive language that you are using at the moment.

Sen. W. Mark: Madam President, this is a matter that I feel very strongly about. I do not like discrimination against poor people. I do not like it! I oppose it! I hate it, and I am glad that Nelson Mandela is coming to this country because he is the symbol against that kind of offence. I am glad that he is coming here. I would like to have an audience with him to tell him about the discrimination that

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takes place in this country under this regime that parades all over the country as one of equality, integrity and justice when they know that they have discriminated and they continue to discriminate against people in this country and the court is showing that every day.

Sen. D. Montano: Madam President, the Member is completely out of hand again. He is ignoring your ruling. We abided by it. We are willing to do so again. He is imputing improper motives again.

Madam President: I fail to see where, hon. Minister. I do not accept that. Continue Senator.

Sen. W Mark: Thank you very much. I just want to say that in terms of discrimination I am just demonstrating to this Senate why an equal opportunity law is needed. There is a company called the National Entrepreneurship Development Company (NEDCO). People are getting loans under all kinds of suspicious circumstances and no accountability. If UNC persons applied for a loan they would know who is a UNC from a PNM.

Madam President, if I apply for a loan at NEDCO and NEDCO turns me down I can go to an institution called the Equal Opportunity Commission and say I have applied for a loan at Nedco, I qualify, I have all my necessary criteria and papers that are required and I am not given the loan. Right now, if you are denied a loan you have nowhere to go, you have nowhere to grieve and that is wrong and I am saying the Government is hypocritical in talking about equality, justice and transparency on the one hand and on the other hand denying the society the right to grieve. That is a normal right. If I want to cry let me cry. If I want to grieve give me an institution where I can grieve, otherwise there is going to be explosion in the country. When you discriminate against people in the country and you do not give them a mechanism to grieve, they take the law into their own hands and that is not good for our country. I am sure the hon. Sen. Danny Montano would not support that.

Madam President—[*Interruption*] That was some time in 2000 we proclaimed it. They have failed to implement it. It was proclaimed but they have failed to implement the law. They have broken the law by failing to implement the law. Madam President, it was proclaimed. Imagine the Government of Trinidad and Tobago is saying it does not know if the law was proclaimed and when the law was proclaimed but the Government has refused to implement the mechanism to give it life. That is an illegal act on the part of the PNM. They do not know if the Act was passed. They do not know if it was proclaimed.

Sen. Dr. Saith: On a point of clarification. The Motion does in fact, say:

Be It Resolved that the Government takes immediate steps to have the Equal Opportunity Legislation proclaimed...

If it has already been proclaimed, I think we need to amend the Motion.

Sen. W. Mark: All right, we would clarify it then. Madam President, we would ask Sen. Dr. Saith to clarify it for us because I could be wrong, too.

On housing, squatting. Discrimination against! You will recall recently in Cashew Gardens, in Wallerfield, citizens' homes were destroyed. Recently I read in the newspapers and I feel sorry for them as well, citizens of this country living in Duncan Village, Union Hall, their homes were destroyed. I feel sorry for them as well as the residents of Cashew Gardens and Wallerfield but in Trinidad and Tobago there is one law for PNM and one law for the rest of the society. I know that the hon. Prime Minister is the Member of Parliament for that area but I also do know that the Prime Minister is the Prime Minister of the people in this country and in the same way the Prime Minister could give an undertaking to the residents of that community saying that he is going to find land to build their homes, I want him to give the same undertaking to the residents of Cashew Gardens and Wallerfield as well. Why discrimination? Why promise the residents of Duncan Village—and I support that but I am just saying to the Prime Minister to be equitable in whatever he is doing. He is not the Prime Minister of Duncan Village, he is not the Prime Minister of Union Village, he is the Prime Minister of the Republic of Trinidad and Tobago and Cashew Gardens is part of Trinidad and Tobago and Wallerfield is part of Trinidad and Tobago. Why have one law for the people of Cashew Gardens and Wallerfield and another law for the people—I do not understand. It does not make sense. I hope that the hon. Prime Minister would take steps to ensure that all citizens are treated equitably in this country.

Madam President, you would remember I had drawn your attention sometime ago to where there was political discrimination in terms of a project and I have heard nothing on this matter since. I called on the Attorney General then to investigate the matter. He has yet to report to this Parliament and I call on him again today in this particular project, Design and Construction of Coastal Protection Works at Invaders' Bay. Madam President, I draw that to your attention and to the Senate's attention. I said there was a particular clause on page 38 of this document: Staff and Labour where they are telling the contractors or whoever is going to be the successful winner in terms of this bid, that all such arrangements in terms of staff and labour shall be in accordance with the general

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usage and subject to such regulations as the Government of Trinidad and Tobago may from time to time require to be observed. In engaging staff and labour preference—discrimination here—shall be given to nationals of Trinidad and Tobago resident within the county of St. George. It is in black and white. Attorney General, do you want a copy?

This is Calder Hart of UDeCOTT. This is in a document that is circulated to persons who are interested in constructing Invaders' Bay Coastal Development Project and this is discrimination. You do not put in a document as we recently discovered, that African males between 17 and 21 must be given preference in terms of the College of Sciences, Technology and Applied Arts of Trinidad and Tobago (COSTAATT) and then we had the Ministers defending that saying the Prime Minister told them where they must fall off.

I call on the Attorney General today, for the second time, to investigate this matter. This is discrimination against citizens from South Trinidad. Why are you saying only citizens from St. George County must be given jobs? So what about the citizens of Toco? Where are they living? "On Mars? They could travel. Guayaguayare, Cedros, Point, Tobago. They can come.

Madam President, I bring this to your attention just to show you the kind of discrimination that is taking place and I want the hon. Minister, the Attorney General in particular, to take note of this particular development.

Madam President, the one that really pained my heart the worst, I want to draw it to your attention. When I raise issues in this Parliament I am accused at times of not bringing sufficient evidence or information.

I know of two young men. I have raised the matter with the Minister of National Security but I want to put it on public record today. Here are two young men. They are brothers. They are young citizens of this great Republic. I will give you the names of them because I want you to understand, when I come to the real story behind this tragedy, what is taking place in the police service of this country. One is called Kelvin Sankar and he lives at Satnarine Trace, Chin Chin Road, Cunupia and the second one is Anthony Sankar. He also lives at Satnarine Trace, Chin Chin Road, Cunupia. One was born on October 01, 1980 and the second one on April 13, 1982. Both attended the Chaguanas Junior Secondary School and Presentation College in Chaguanas. Could you imagine these two young citizens—their father was a policeman—and their desire was to be policemen as well and they did all that was possible to become police officers in this country. Madam President, do you know that these two young men, in the case of Kelvin Sankar—

Madam President, let me just read the kinds of qualifications that these young men have. One has Mathematics, English Language, Physics, Geography, Biology, Chemistry, Social Studies, Technical Drawing, Additional Maths, Spanish, Advance: Mathematics, Biology, Chemistry. And the other brother has the same number of passes and same number of—What has happened is that they applied to the police service and I want to show you the discrimination. I want the hon. Minister of National Security to investigate this matter. On Sunday, August 23, 2003 these two gentlemen wrote a dictation test at the Chaguanas Senior Comprehensive School. On August 27, 2003 they received the results of the dictation and they got top marks and the officers requested copies of their academic qualifications. I am tracing and sketching for you this whole scenario.

Sergeant John of the Chaguanas Police Station called them for fingerprints. On September 19, 2003, the Chaguanas Police Station informed them that their physical examination was scheduled for the 22nd and 23rd September. They went and had that. Dr. Low Chew-Tung gave them a slip to complete their medical chest x-ray at the Victoria Nursing Home, San Fernando. They were successful there as well. Sergeant Ramlogan called them for a station interview at the Cunupia Police Station a few weeks later; they were successful again. On November 13, 2003 the Police Training College called them at approximately 3.45 p.m. to complete blood, drug and psychiatric evaluation at the Central Medical Laboratory, Frederick Street.

On April 14, 2004 Senior Superintendent of the Police Training College informed them that they were unsuccessful. Why? They wore glasses. They passed all the tests. I am showing you where there is a situation of discrimination, where these two young men, highly qualified, and there is evidence to show that there are many individuals who went through the same exercise, they wore glasses and they may not have been as big as Senators Rennie Dumas or Wade Mark, but maybe they were a little small—

Madam President: I would like the hon. Senator to know that his time is actually up. We are now looking at time. Your 60 minutes is up. I will give you a minute to wind up.

Sen. W. Mark: Madam President, I read this into the record because I would like the hon. Minister of National Security and Rehabilitation to investigate this matter. The truth of the matter is that we believe the Government should take steps to have this legislation implemented. We also believe that discrimination is a crime against humanity and no less a figure than Nelson Mandela said and I quote: “Discrimination is the greatest blight that could have happened to

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mankind.” And he fought against it and I call on this PNM regime to take steps to effect the equal opportunity legislation to allow the citizens of this Republic, regardless of colour, creed, race or region to have equal access to justice so that whenever they feel discriminated against they can go to an institution to get redress and to get justice.

Thank you very much, Madam President.

Seconded by Sen. Sadiq Baksh.

Question proposed.

Sen. Basharat Ali: Madam President, I am very pleased to make a contribution to the debate on this Motion by Sen. Wade Mark, that the Government take steps to have the equal opportunity legislation proclaimed and fully effected by the Republic of Trinidad and Tobago.

This debate started five weeks ago and the date was March 23, 2004. At that time I had expected to lead off for the Independent Bench and as we continue today, I have had to re-word some of my data or contribution, but some of it is still very relevant. March 23 2004 was World Meteorological Day and that followed World Water Day on March 22. Both days were very well publicized on March 22 through an advertising special consisting of four G size pages in the *Guardian*. The Minister of Public Utilities and the Environment even had a message and, of course, there was a photograph of her in the advertising special.

Earlier that month on March 08, 2004 it was International Women’s Day and that event, deservedly so, was well celebrated. In fact, the celebration lasted for one week and culminated in the award ceremony for the Faith Wiltshire Award on Saturday 13th March, which I believe, was graced by the presence of the hon. Prime Minister.

I wonder how many know that Sunday, March 21, 2004 marked the United Nations International Day for the Elimination of Racial Discrimination. I was alerted to that fact by an article by Leela Ramdeen, who is the Chair of the Catholic Commission for Social Justice, in the *Guardian* of March 22 under the heading, “Challenging racism”. Evidently this important day went unmarked in our country and did not appear to have any significance or bearing on our lives.

On this subject of racism and racial discrimination, we seem to be in denial. We speak about “all ah we is one” and are pleased when we are called a “rainbow people”. If I remember my first lessons in Physics, the colours of the rainbow are red, orange, yellow, blue, green, indigo and violet. Not really the colour of our

people although some people are referred to as red, some people as yellow. At least, I know one green face man who was from the field of calypso and there is one only blue, and that is “Super Blue”. So the colours, in fact, in a way are irrelevant.

I would like to remind this Senate also that the beautiful rainbow is but a fleeting phenomenon. Here now and soon gone. Perhaps, we do fit the description. Our rainbow qualities appear on certain festive occasions: Christmas, Divali, Indian Arrival Day, Eid perhaps, more identifiable by the traditional food and drink: sorrel and ponche de crème for Christmas, prasad for Divali, roti on Indian Arrival Day—and last year I was very surprised to see a television clip where there was a long line outside the roti shop on Indian Arrival Day, so that was the way many of our citizens were celebrating Indian Arrival Day. I hope, in deference to Sen. Prof. Ramchand, that they ordered and enjoyed “paratha” and not “buss up shut”.

Finally, in terms of holidays, on Eid we share sewaine among the people. But is this all we should aspire to achieve?

Madam President, my personal experience is not unlike that of Leela Ramdeen and I would like to quote a couple of paragraphs from that same article I referred to “Challenging racism”. I quote:

“T&T is populated by individuals from many ethnic groups. None of our faith communities preaches racism/racial intolerance. And yet, as a dougla, I have found myself in discussions, particularly with people of Indian and African descent in T&T, where I have had to address discriminatory comments made by one side about the other.

Often when I challenge these statements I am told: ‘You’re OK, you’re one of us.’ As though that statement grants me a way into the ‘club’ and seeks to encourage me to desist from challenging racism/racial discrimination.

Racism/racial discrimination is an affront to human dignity and hinders mutual understanding between peoples. With all the complaints about patronage, favouritism, nepotism based on ethnicity, our Government must do more to build confidence among citizens that it operates on principles of fairness.”

A wonderful quote from the article of March 23 in the *Guardian*, which I recommend people to read if they can find it. I believe that I am reasonably well qualified to speak on racial matters because my wife and I, as equal partners,

represent some 80 per cent of the ethnic mix of Trinidad and Tobago. And I think most of you here or some of you, at least, know that. I support what Leela Ramdeen said because I am aware of those situations. Let me give you a few examples. And sometimes I get a bit passionate about this.

About three years ago I was driving to my favourite record shop along Riverside Road in Curepe. A woman broke the major road and almost collided with me at a junction just a block away from the Eastern Main Road towards the shop where I was going. The woman wound down her window and shouted at me, "All yuh think you own the whole country!" Quite obvious what she meant—I was shocked by this outburst from a person who was evidently an office worker judging from her work suit. I had to contain myself because I did not want to disrespect myself. I do not think she deserved respect but I certainly did not want to disrespect myself by responding.

On a second occasion I happened to be visiting my sisters at the family home in Aranguez where I was born. An Indian woman, a visitor from the United States, dropped in to say hello to one of my sisters. She had not met me before, but proceeded to berate the people at the Croisee implying that the place had become like Haiti or some part of Africa. Once again, I had to control my anger at the racial attitude of this woman. Before she left I learnt that her substantive job in the USA was a nanny to some "white" people's children in Westchester, New York. What an attitude for a glorified servant in a foreign country! I am sure that she would not do the same job in Trinidad and Tobago, but Madam President, this racial attitude is present among our so-called middle and upper-middle class.

Let me give an example or two from a field which I love, music. A few years ago a certain jazz artist, writing a commentary on an upcoming jazz festival, thought that the organizers were guilty of tokenism by the inclusion of Mungal Patassar and his pantar group on one of the concert nights. I do not know whether this lady was present on the night of the concert, but the most hearty applause was for the performance of this group on that night.

2.30 p.m.

I was surprised that this jazz artist had such a narrow view of that genre of music and was unaware of the influence of that master musician of India, Ravi Shankar, or a jazz artist and composer of the calibre of John Coltrane.

Our own Pat Bishop is a wonderful innovator in the field of music. I know that some people took exception to her use of tassa players to herald the

wonderful Hallelujah Chorus from Handel's Messiah at a performance of her Lydian Singers. These same people would have been loudly applauding Arima Nutones just a few years ago in their stirring performance of David Rudder's High Mas', with the Hallelujah Chorus being the finale to their Carnival Panorama Championship performance. These same people would be applauding the Lydian singers' most moving performance of Missa Luba. Missa Luba is an African Mass from the Congo, which combines the ancient Latin text of the Mass with modified African rhythms and polyphony. Many people hearing it for the first time may not even have recognized the Kyrie, Sanctus, Gloria and Benedictus of the Latin Mass because of the Africanized rhythms—a beautiful piece of music; the universal language.

Madam President, we may be ignoring the undercurrent of racism in our society, but it does not go unnoticed outside the confines of our country. Some of those on the Government Benches would be aware of the visit last year—late in 2003—of Mr. Doudou Diene, representing the UN Commission on Human Rights. He is the special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. A summary of his visit is given in a United Nation's press release dated March 22, 2004. Permit me to read two excerpts from the press release of the United Nations. The heading is:

“Commission on Human Rights begins discussion on Racism, Racial Discrimination and Xenophobia:

Doudou Diene, Special Rapporteur on special forms of racism, racial discrimination, xenophobia and related intolerance, spoke of the alarming resurgence and vitality of the traditional forms of discrimination, and the appearance of new forms of discrimination affecting the non-national, the refugee and the immigrant. The alert status was at red, he said, with regard to racism, racial discrimination and xenophobia. His report concerned field missions to Canada, Colombia, Côte d'Ivoire, Guyana and Trinidad and Tobago.”

The second excerpt—and I will not include the whole statement, but just, in our context, a very small part:

“As for the last two countries he had visited, Guyana and Trinidad and Tobago, the Special Rapporteur said, these were the most extreme examples, with different intensities of ethnic polarization coming from cultures of systematic political instrumentalization of ethnic and racial factors.”

There we have it. It is not all doom and gloom. There is some light at the end of the tunnel. I was very pleased that in the field of sport—football to be specific—

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the recently appointed Technical Director of the Trinidad and Tobago Football Federation (TTFF), Lincoln Phillips, one of Trinidad and Tobago's most outstanding goalkeepers, was pleading for racial integration in the sport.

In his address at the 2003 Season Awards Ceremony of the Trinidad and Tobago Pro League on April 02, 2004, he made a call that the talent from all races in the country be sought for the Trinidad and Tobago national team and for the return of the days when Indians and white players also represented Trinidad and Tobago. This was in the *Sunday Express* dated April 04. He is reported as saying:

“There's a lack of racial integration in the sport in the country and we cannot exclude any part of society if we are to go forward in the sport. Football is for everybody.”

That was reported in the *Sunday Guardian* of the same date.

Madam President, it will be remiss of me if I did not refer to the most recent event, which was last Tuesday, when there was the inaugural symposium of the President's Committee for National Self Discovery. It was entitled “Being here: Now and Then”.

I extend my warmest congratulations to Sen. Prof. Ramchand for putting together this presentation. There were four panelists and I refer specifically to the most refreshing part of it, which were two young people—one of them called Gabrielle Hosein, who I think is a MPhil student or graduate, and Marsha Massiah, who is a BA graduate with a major in History and a minor in Gender Affairs. It was very refreshing for those of us who were there. Unfortunately, I did not see many of us there on the night of the 20th. I am hoping that the tape of the event will be aired either on TIC or NBN, so that more of the population would be aware of what is happening.

I implore the Ministry of Finance—unfortunately the Minister in the Ministry of Finance is not here today—to provide some funding for further development of the work of this committee. I think it is very important that we address this question of self-knowledge; that we accept that we are different and that we can be together. This is only the start. Sen. Prof. Ramchand, in his opening remarks, said that they were going to the schools, I believe, with similar kinds of programmes and I really commend that group, with limited resources, for taking that kind of action.

Madam President, I would briefly like to speak on the question of disabled persons, in the context of the Equal Opportunity Act. I refer to the document,

Policy on Persons with Disabilities, which has been circulated for comment among interested parties. That document was prepared by the Disabilities Affairs Unit of the Office of the Prime Minister, Social Services Delivery. I commend the hon. Minister, Sen. Christine Kangaroo, for a well-thought-out, comprehensive paper on the subject. I believe that subject to the comments from interested parties, the basis for a strategic plan has been laid down.

It is no secret that we are great at planning, but so often fall behind in execution—I am tempted to add, even of the convicted, but I am ambivalent on the issue of the death penalty. On page 2 of the background of the paper, I note the qualifying sentence: “However several of the measures highlighted in the policy are both capital intensive and long-term in nature and will require funding on a large scale”. Madam President, I am strongly of the view that this Government needs to take the lead, on an urgent basis, to phase in capital programmes to make life easier for the disabled. I hope that some of the surplus revenue accruing from unexpectedly high energy prices would be earmarked for such work.

I am not speaking by guess. On April 23, WTI crude oil, which is the marker crude, had gone to \$37 plus, compared to the budgeted figure of \$25. Up to now we have enjoyed a windfall, and the price was up last Friday—it may be higher because of the Basra incident—an increase of 50 per cent of what was budgeted. Can we not find some of this money to go back to these programmes for these unfortunate citizens?

I am sure that Parliament, in its commitment to those less fortunate of our citizens, will not hesitate to support a supplementary appropriation in furtherance of this case. If the Government does not take the lead, how effective will it be in curbing claims for unjustifiable hardships under section 18(A) of the Equal Opportunity Act?

Turning to the Motion and the Equal Opportunity Act, I take into account Sen. Dr. Saith's clarification that the Act has already been proclaimed. I had seen that there was one amendment to that Act, which is a very important one—that is Act No. 5 of 2001, assented to on June 11, 2001, which removed the power of the Minister to appoint the chairman and vice-chairman of the Equal Opportunity Commission. I was very pleased with that because I had serious reservations about the politicization of the Equal Opportunity Commission. Now it is the President who, after consultation with the Prime Minister and the Leader of the Opposition, will appoint the five members of the commission.

I do not see reference to a quorum for its meetings and I do not know whether this was intentional or an omission. Perhaps the legal people will refer to that. By and large, the Act addresses the subject of discrimination and victimization adequately, in my view. However, I do have one major departure in the content of the Act, and that is the definition of “sex”, which explicitly excludes sexual preference or orientation.

In my view, this entrenches discrimination within the Act and I cannot abide by it. Therefore, we have to do one of two things—amend the Act now or implement the provision of the Act by appointment of the commission and then proceed expeditiously with the amendment. This may sound odd, but it is not really because only recently both Houses passed the Occupational Safety and Health Act (OSHA) in the knowledge that there were areas which need to be amended. The passing of the Act was a long outstanding necessity.

By the way, why is this Act still awaiting proclamation? Can anyone on the Government Benches answer that question?

Sen. R. Montano: On a point of information to the hon. Senator. To my knowledge this Act has already been proclaimed. Part IV of the Bill was proclaimed on November 20, 2000 and the remainder of the Act was proclaimed on January 31, 2001.

Sen. B. Ali: Madam President, I was not referring to that. I was referring to the amendment. If the Act is fully proclaimed, it is operational. That is why I am saying that you either go forward and put in an amendment now on the definition of “sex”, or appoint the commission and then expeditiously do it. I was not referring to the Equal Opportunity Act because I checked and that was proclaimed already. I am asking anybody on the Government Benches to say why, after three months, the OSHA is not proclaimed. Is there any explanation for it? Three months have gone. I know because I was sworn in on January 13, the day the Bill was passed in this Senate after being passed in the Lower House.

Subject to my expressed reservation, I support the Motion before us and I look forward to contributions from the Government Benches and my fellow Independent Senators on this issue of equal opportunity for all.

I thank you.

Sen. Dr. Tim Gopeesingh: Madam President, it is really a distinct honour for me to be here and I thank all Senators for the warm welcome that I have received.

Sen. Dumas: On a point of order, Madam President. I just heard Sen. R. Montano give us some advice—gratuitous I think. I wonder if the advice he gave

is correct, if it was available to the mover of the Motion. Now that the advice is available to us, I suggest that continuance of this debate does not make sense. [Interruption] The point of order is that this matter should not be before us because of the redundancy in the legislative process.

Madam President: I do not agree with you, Minister. Although it was proclaimed, the Motion said it has not been put into effect—the mechanism; the board has not been appointed and the other matters not done. I think that is really what the Motion is about.

Sen. Dumas: It has not been brought out by the mover, Madam President.

Sen. Dr. T. Gopeesingh: Thank you very much, Madam President. As I was saying, it is indeed a great honour and a pleasure for me to be in the same august gathering with you. You remember us being young medical students in the 1970s at the general hospital, Port of Spain. It was almost 30 years ago. To sit with you as the Presiding Officer and President of this honourable Senate is very gratifying to many of us. I thank Senators on both sides for their warm welcome back to this august Senate.

It is a great honour to participate in this debate in terms of the Motion raised by the hon. Sen. Wade Mark. We understand the fears of Sen. The Hon. Rennie Dumas. What we are asking in this Motion—we know that the Bill has been passed; it has been made an Act; it has been proclaimed—is that they give effect to the Equal Opportunity Commission and Tribunal. The Motion that has been put forward would give a new remedy where none now exists and we are wondering why there is this reluctance of the Government—delaying this after almost two years and four months and not effecting it. We have to ask the question: Why is there a delay?

This Motion would give a legally enforceable right to any individual to get redress against persons in the private sector, companies or corporations, which are not regarded as the State, where these private sector individuals, companies or state corporations, which are not regarded as state in law, discriminate against individuals in respect of matters covered under the Act.

The Motion would provide the machinery, which does not now exist, where an individual would be able to go to the Equal Opportunity Commission to complain rather than having to go through the court processes to file constitutional motions and judicial review motions, at a cost. The commission would act on behalf of the individual to investigate and to try to conciliate. That is the purpose of the Motion.

So the aggrieved persons would not necessarily have to go to a lawyer at a cost. The commission would be there for the aggrieved person to go to without having to pay a fee. They would not have to pay any legal fees whatsoever. I know personally what legal fees are, having spent almost \$1 million to defend myself against unscrupulous charges, which had no foundation. That person would go to the commission and the commission would have the power to investigate and determine whether the aggrieved individual has a case. If that person is dissatisfied with the commission's findings, that person can now go to the tribunal. The fact is that the individual, whether the person is in any part of the country—Laventille, Cedros, Couva or Toco—if he or she feels discriminated against, on the basis of what is contained in the Act, he or she can go to the commission. When the commission investigates and finds a basis for the complaint, the commission is mandated to try conciliation.

So the commission would try to resolve the matter. If the matter is not resolved by the commission, it would then publish a report and if after that it is still not resolved, the commission, on behalf of the individual—no lawyer, no fees, no constitutional motion, no judicial review—would make that application to the tribunal. The concept is that the commission would adjudicate the matter, and this is what this Motion is asking this honourable Senate to accept. We are asking this honourable Senate to accept the Motion that the commission and tribunal must be effected. There would therefore be, in the commission, a legal department, which will, in effect, pursue the complaint before the tribunal on behalf of the individual but the person would be entitled to have his or her own lawyer if that person really wants legal assistance.

Madam President, I just want to go through a little preamble of the constitutions around the world and then to go to the Constitution of Trinidad and Tobago to show why what is enshrined in our Constitution, the Equal Opportunity Act has sought to bring into law, but it is unsatisfactory for a law that has been passed for almost two years and four months to not be effected by the lethargy and tardiness of the legislative process of the Government.

Article 1 of the Universal Declaration on Human Rights proudly proclaims that all human beings are born free and equal in dignity and rights; not only born free as Rousseau said in his first sentence on the social contract, but also equal. The idea that all human beings are equal is a recent notion. For most of history people have been divided precisely in accordance with notions of inequality. Privilege, not equality has been the guiding principle.

So deeply embedded was the notion of inequality, that as recently as 1909, the court could not accept that the word “person” could include women. That was a House of Lord statement in 1909. In the USA, the equal protection clause was included at the end of the Civil War as part of the Fourteenth Amendment and the Civil Rights Act of 1964 prohibited discrimination in the provision of employment, housing and other facilities, which Sen. Wade Mark spoke about as occurring in Trinidad and Tobago at the moment.

Section 1 of the Constitution of the Republic of South Africa states that the Republic of South Africa is one sovereign democratic state founded on the following values: human dignity, the achievement of equality and the advancement of human rights and freedoms, non-racialism and non-sexism. We know that the members of Government have difficulty in terms of wanting to have included in the Act some question of the sexist aspect—whether it is homosexuality or lesbianism—but I want to proffer that we have not reached that degree of sophistication in Trinidad and Tobago at the moment to debate that matter. When that matter comes up at some subsequent time, it could be added as an amendment to the Act.

Section 29(1)(b) of the South African Constitution states that everyone has the right to a basic education, including adult basic education. In Trinidad and Tobago, we have this wide disparity in the education system. There are almost 300,000 functional illiterates who have been left out of society. That is massive discrimination in the education system, whereby we are trying to move to 15 per cent tertiary education while we have almost 300,000 persons who are unable to make or to write a sentence. This is discrimination and this is inequality, which we have to address. It goes further to state that the State, through reasonable measures, must make further education progressively available and accessible.

Through this honourable Senate, Madam President, I take this opportunity to ask the hon. Minister of Education to look at the question of redress of this massive adult population who are functional illiterates. We have started an Adult Literacy Programme. We have started literacy centres. Numeracy and literacy have been started in a number of areas throughout Trinidad and Tobago to address the adult literacy problem. I implore the Minister to take urgent steps to bring in those 300,000 persons, who have been left out of the fold of the education system. They must feel unhappy about themselves that they cannot read or do simple arithmetic. We therefore ask that this be looked at in terms of the inequality, which exists in the society today as far as education is concerned.

It is useless trying to create the human capacity at a high level and fail to motivate the people at a lower level. This society can become ungovernable when

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we have a mass of people who are functioning illiterates and who cannot make a sentence and who, to read a sentence, become so demotivated. This is what is giving rise to all the crime and kidnapping today. This inequality has to be stopped and something has to be done very quickly.

Singapore trains its population every four years and there is a massive retraining programme. Why, in a small country of 1.2 million, can we not retrain our population? Even though we may not be able to retrain them in literacy and numeracy, we can train them in skills and make them feel valuable members of society.

3.00 p.m.

Section 15 the Canadian Constitution of 1982 states that every individual is equal before the law and under the law and has the right to equal protection and equal benefit of the law, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, mental or physical disability. I am making these statements because we say that we are a developing country and that we would be a First World country by 2020. We have enshrined in our Constitution—but we are failing to take measures to ensure that equality of opportunity pervades our society. What has this Government to fear by not effecting this legislation or bringing the commission and the tribunal?

The American Declaration of Independence in 1776 states: We hold these truths to be self-evident that all men are created equal; that they are endowed by their creator with certain inalienable rights, but among these are life, liberty and the pursuit of happiness. Can we in Trinidad and Tobago say that we have the security of life, liberty and happiness? Every day we have to be watching over our shoulders thinking of who is driving behind us. We have to pull at the side of the road to see whether it is a bandit coming to hold us up. When you open your doors you have to wonder whether someone is coming into your home. When you are in your office you have to see who is coming through your front door. There is a massive amount of crime and kidnapping. There is massive inequality in the society. That has to be addressed. This is why we are asking for the Equal Opportunity Act to continue and be effected.

The American Declaration of Independence in 1776 states—this is of importance—whenever any form of government becomes destructive of these ends and unable to effect their safety and happiness, it is the right of the people to alter or abolish it and to institute new government. Here it is, in 2004, we have a government that is unable to effect the safety and happiness of the people. The

American Constitution said that they should change the government. If this Government continues the way it is going we should ask for this Government to be changed. [*Desk thumping*] The safety and happiness of the people includes you, Madam President, all our colleagues on the Independent Bench and those in the Government. I am sure you are frightened most of the times because of what is happening.

If we look at the Constitution of Trinidad and Tobago, the Recognition and Protection of Fundamental Human Rights and Freedoms, Part I states:

“It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without rights of discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely—

(a) the right of the individual to life,...

Somebody could gun me down tomorrow. I do not have that right of my own life. If I walk outside I could be shot now.

“liberty, security...”

We have to live behind burglar bars. Where is the equality in the system? We do not necessarily want a total egalitarian system. That is a form of Leninism and Marxism. We want a society where we feel we must be secure and our lives and our families’ lives are secure.

I had a friend, Chris Aleong, who was gunned down mercilessly one morning. I was told that he was still alive so I ran to St. Clair and got my surgical and anaesthetic colleagues to go there, only to find when I was walking in that he had a bullet through his heart and was dead. What has happened? We have lost a valuable member of society. Many valuable members of the society are lost and nothing is done about it. I have not heard anything about it. Life is extremely cheap in Trinidad and Tobago. Sen. Dr. McKenzie, it is happening in Tobago. Why do we have to suffer this inequality and pervasiveness of the increase in crime and insecurity in our country? This is a society of 1.2 million people, which is easy to govern. We must have the strength, the capacity and the fortitude to do what we think is right.

We must have freedom of movement. Part I continues:

“(g) freedom of movement;

(i) freedom of thought and expression;”

The media wants the freedom of expression. Continuing:

“(j) freedom of association and assembly;”

I will be speaking on the question of freedom of association and assembly of the doctors. The Government wants to impose the Public Services Association on the doctors who have the right to choose whichever bargaining body they want. The Government has decided that it is imposing the PSA on them—whether they want it or not—against the constitutional right of the individuals. I hope the hon. Minister of Health sees the daylight and the necessity to withdraw that. The Government cannot impose a trade union on people who really do not want and have not served that group of people sufficiently. Why does TTUTA represent the teachers? Why does the Law Association represent the lawyers in the State department? Why does the Police Service Association represent the police officers? Why can MPATT not represent the doctors?

Madam President, you and I were young doctors at the Port of Spain General Hospital in the 1970s. You know Dr. Welch, Dr. Persad and Dr. Lennox Pierre were trying to move the doctors away from the PSA as early as 1974. Now, 30 years later, the doctors are still trying to do it. They have the capacity. They have 363 out of the 400 doctors with MPATT, but the State is imposing a penalty on the doctors for some reason. They do not like them. They do not like the way they bargain. They do not like the individuals. This is morally wrong in the society. We cannot impose legislation and do things because you do not like someone or because you are at variance with them in their thoughts and expressions. This is freedom of expression. We must be able to say what we want to say, with limits, of course.

The European Convention on Human Rights on the Human Rights Act of 1998—my learned colleague Sen. Seetahal, will tell you that this is part of public law for the students in administrative law—spoke of the European Union with 450 million persons; 15 countries, another 10 to be added. They saw for themselves that the whole question of human rights could be aggravated. They realized that they had to bring a Constitution for these European countries. This is why Britain, through Tony Blair, is now having tremendous difficulty with respect to a question of a referendum. Britain wants to go to the European Union because a constitution is now being imposed upon them. They had no written constitution. They had only the common law.

Madam President, hon. Senators, why do we need the Equal Opportunity Commission and Tribunal? This side initiated dialogue on an Equal Opportunity

Commission since the late 1980s and established an Equal Opportunity Commission in the office of the Leader of the Opposition in the early 1990s. It was a promise that this side made to the people of this country and it was kept. It is so unlike the other side, when the promise of the PNM in 2002, to workers in the energy sector, with regard to sectoral minimum wage, could not be honoured. You do not say something where you do not mean it. You must have honour in what you say. When posed with the critical situation, they back-pedalled and caused, as a result of that, the loss of approximately \$200 million from the strike at the Atlantic LNG recently. You simply cannot make promises when you know that you cannot uphold or keep them.

Due to the General Election of 2000 and the political upheavals of 2001, the UNC administration was unable to implement this Act and establish the Equal Opportunity Commission and Tribunal. Two years and four months have passed with this Government and they have not been able to do it.

Sen. Seetahal: Three years.

Sen. Dr. Gopeesingh: Almost three years. This refusal constitutes an obstruction of the will of Parliament. Parliament has dictated that this is an Act. The President has assented to it. It is the obstructionist will of the Government to prevent this Act from being implemented. [*Desk thumping*] This is why constitutional reform, which is being spoken about—we hope the Prime Minister is very serious about constitutional reform when he begins to talk with us on this side. It is really needed.

We can talk about separation of powers. Madam President, every day we see an abuse of the process of separation of powers. We have the Executive, the Judiciary and Parliament. There are members of the Executive who are in Parliament making statements and interfering with the Judiciary and the judicial process. I know that for a fact; it happened in my case. The Attorney General made the statement. When matters are before the courts, he knows that they are going to win their matters. How could you be interfering with the judicial process? Where is the separation of powers?

The English legal system says that there must be separation of powers. The European Parliament and the European Court of Justice have handed down decisions to the United Kingdom, that you must separate your powers. Lord Chancellor was a Member of Parliament and he also governed the Judiciary. They told them that Lord Chancellor must go. The European Court of Justice told the English court that this must not happen. Lord Chancellor is no longer there. Tony Blair has to reform his whole English legal system.

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Here we have people interfering with the Judiciary and the DPP. That is sacrosanct office. The Government cannot interfere with the DPP's work. We have policemen going to the DPP and pressing him to lay charges on people and then spreading information that 15 persons are going to be charged. This is wrong! It is morally wrong! We cannot allow this to happen in a small country like this.

Hon. Senators, I want to give you a few cases and illustrations of the discriminative practices and aspects of what is taking place. There is urgent need for the acceptance of the Equal Opportunity Commission and Tribunal to be put in place. Since the PNM has come into office, the need for mechanisms to protect citizens against abuses of the State has become ever more important and needed much more than ever. Look at some of the abuses so far.

Nine thousand workers of Caroni (1975) Limited were dismissed. That is an abuse of a society that had a culture. They were dismissed and sent away. Workers were promised lands by the Government, so far no lands have been distributed. Although the Junior Minister of Finance, Sen. The Hon. C. Sahadeo said that the restructuring went well. How could the Government speak about restructuring when it said that land was going to be redistributed? Lands have not been redistributed.

The Prime Minister threatened that if the UNC did not support the PNM to elect a Speaker, Caroni (1975) Limited would suffer. That is victimization and malice that exist at the highest level in the society. Why must Caroni (1975) Limited suffer because the UNC did not support them?

Today we are importing molasses from Guyana. The people of Guyana are crying out. The rum manufacturers are crying out. Why should Guyana be sending their molasses to Trinidad? It is because we do not have our own. We are supposed to be producing 75 tonnes of sugar for ourselves. We are importing sugar from Guyana to be refined. We used to make \$250 million by exporting our sugar internationally. The Government has closed down our industry. The Government has ruined the lives of approximately 100,000 persons. They have annihilated a certain sector of Trinidad. It has demoralized a certain culture in Trinidad and feels happy about it and goes on as though nothing has happened.

There is discrimination against the doctors. There is a paper done by someone from the University of the West Indies. It is a research on the exodus of doctors from Trinidad and Tobago. Madam President, do you know I have been lecturing all my life at the university, from 1978 informally and formally, since 1985. My

life has been teaching medical students. You know, you have been in the operating theatre with me. I have operated on many persons over the past 19 years. I have trained almost 1,200 young doctors. Where are they today? They have left the country. Ninety per cent of the doctors who are trained at the University of the West Indies and are the best doctors in the world have left Trinidad and Tobago. Why do they leave Trinidad and Tobago? It is because we do not create the atmosphere, the environment and institutions for them to work. They are pressured. They are not given a contract. It took a year and a half—Dr. Saith had to intervene. The Minister of Health threw them to the wolves. He said: “I am not negotiating with you.” Even the inter-ministerial committee is taking a year and three months to settle the doctors’ issue. Everyone is told to go on leave at the same time. This is total mismanagement. Ninety per cent of our doctors who were trained had to leave. This is why we have to import doctors.

The Government brought doctors from Cuba. I have nothing ill to say about them, but we must recognize that there is a two-tiered system. The Cuban doctors at the highest level are trained in Russia. They can do surgery at a high level. There are the barefoot doctors. One out of 60 persons in Cuba can be seen by a barefoot doctor. These are the doctors we are getting in Trinidad and Tobago.

We have the UNDP doctors who have resigned and served their time. I have one working with me at the Women’s Hospital. I do not want to say anything because you can find out who the doctor is. I do not like to be dirty about anybody. I would not say anything about it. Madam President, they are incompetent. The Government is bringing the health sector to a level that lives would be lost. Just as a gunshot, they are going to be lost in an operating theatre, because people do not know what they are doing. Diagnoses are going to be missed. I feel sorry for the poor population.

We already have a system where there is mass inequality in health care. The poor man cannot get the health care that he needs at the moment. It is only the wealthy ones, those who can afford and those who have insurance, can go to the private nursing homes and get the care that they want. Why must we continue to have this?

The hon. Minister of Health is my friend. I spoke to him and gave him points of advice many times. There is the question of the St. Ann’s Hospital being overcrowded. There are persons there for more than 50 years. There are 150 persons at the St. James Radiotherapy Centre for over 30 years. Move them out. We need to have the national health insurance system brought in. The employer would pay a certain amount and the employee would also put a certain amount.

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You pool the resources, develop an insurance premium for every individual and they can seek their health care, either in a private nursing home or the hospital. The hospital then has to come up to scratch if they want to get these patients to come to them.

In Trinidad and Tobago, approximately 1,200 persons die from cancer each year. One out of every eight persons dies as a result of cancer. There are 18,000 births and 9,000 deaths each year. The natural increase in the population is 9,000. Each year there are at least 3,500 cancer deaths. Yet, we are antiquated. We have a cobalt machine which burns the patients' bowel and bladder. The patients die from the complication of radiotherapy. We do not have a cancer-screening programme. Cervical, breast and prostate cancer are high. People are not getting the care. Why do we not move on?

The UNC already worked with Cancer Care International of Canada. I know the person involved personally because he trained me in gynaecologic cancer in Canada, Professor Denny De Petrello, who heads Cancer Care International. They are waiting to come to Trinidad and Tobago. The Trinidad and Tobago Government, in our time, signed a bilateral agreement with the Canadian Government on this. It is three years we are waiting for something to happen, as far as the cancer care programme is concerned. [*Desk thumping*]

We have built 45 new health centres. Nothing is happening. The Government is not equipping them. Doctors are not going there. We have nurses. I have advised the hon. Minister of Health to increase the number of nurses. We are only training 300—400 nurses. We did not do it in our time. We started a training programme. We started to train 300 nurses, but we needed to do much more. I would encourage the training of at least 1,000 nurses per year. The hospital systems can take it. If we train them, in three years' time, if some want to leave they can go and their remittances would help support their families in Trinidad. A number of countries in the Caribbean are surviving just from remittances alone. We should not hesitate to train at least 1,000 nurses.

We do not have mental health nurses. Males, predominantly, were doing the mental health training programme. We do not have them now. There is much work to be done. There is massive inequality in education, health, housing and poverty. Why should a small society of 1.2 million persons have poverty of 20 per cent? One in every five persons is poor, under-privileged and suffering, when we have so much money in the oil and energy sectors.

Sen. Mary King will tell you. Where is the economic diversification in Trinidad and Tobago? Are we still relying on the oil and energy sectors and the natural gas? What about the downstream industries? Why can we not become diversified? We still have \$8,000 per capita income, when Barbados has \$14,000 per capita income. We are still behind. We have all these resources. There is inequity in economic management, education, health, security and our daily lives. It is appalling! This is what we are trying to redress.

In the list of cases of discrimination, Doodnath Rajkumar, was not promoted in 34 years, despite the fact that he acted in the next senior rank for over 14 years. Justice Lucky eventually upheld his claim. He said that he was treated unfairly. The Privy Council supported this conclusion in a landmark judgment, which opened a floodgate for persons who were being victimized and treated unfairly. Where do they have to go? They have to go to the courts for judicial review. They have to file constitutional motions. This is expensive.

With respect to Seethal Rattansingh, it was not until the High Court intervened to force the ministry to properly reinstate Rattansingh with full benefits, that he benefited from the injunction.

In the case of Harridath Maraj, his staff report was changed behind his back by some officers to deny him the rank of inspector. Disciplinary charges were also trumped up against him and several breaches of the Public Service Regulations committed, all in an effort to ensure that Maraj was not elevated to Inspector of Police. One wonders why there is not an attempt or desire to alter the ethnic imbalance in the upper echelons of the police service.

In the case of Mohanilal Bhagwandeem from Rio Claro, the High Court ruled that the then Commissioner of Prisons committed several violations of the Public Service Regulations by treating Bhagwandeem unfairly when he was bypassed for promotion. The court declared that he was treated unfairly, and ordered the Commissioner of Police to reconsider the promotion. These are just some instances of discriminatory practices in the public service. There is so much more in the private sector.

What we are seeking to do, through the Motion by brother Sen. Mark, is to ask those on the other side to effect this as quickly as possible so that people would have redress in an effective manner and without any cost. This brings equity in a society.

I want to say a few things again. We know Prof. Selwyn Cudjoe. [*Laughter*] Prof. Selwyn Cudjoe called for the banning of the *Ramayan*. That is the holy

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scripture for the Hindu population. Here is a man making this statement. This is in the *Independent* newspaper of July 16, 1998. Should that man be in this society?

Sen. Mark: They have him as a director!

Sen. Dr. T. Gopeesingh: They are trying to hide the information. They come every day in the Parliament. Madam President, the fundamental pillars of any civilized society rest on the institutions and the institutional framework which govern the society. The institutions which govern this society today—we enacted the Equal Opportunity Bill, the Integrity in Public Life Bill and the Freedom of Information Act. It is this Government that is surreptitiously coming, almost every day, to say that NEDCO and the Central Bank must not be under the Freedom of Information Act, because Prof. Cudjoe has been given money to be transported. What is the Government trying to hide? If the Government is doing something wrong they should not hide what they are doing. It is surprising the media has not made a public outcry of that. Why is there silence about the Government wanting to withdraw NEDCO, the Central Bank and the UTC from the Freedom of Information Act?

Sen. Seepersad-Bachan: They did it already.

Sen. Dr. T. Gopeesingh: There is a lot of hue and cry. We live in a society where we want to get information. All the parliamentary committees are there to do the same job: to get the information from Ministers and ministries. This is why the committees have been set up. Here on the other hand, the State comes to say: “I do not want to tell you what we are doing. Pull it back. Hide the nefarious activities under a legislation.”

The *Independent* newspaper of July 16, 1998 states that at the opening of Parliament on Friday, January 12, Prof. Selwyn Cudjoe called for the overthrow of the UNC administration. On July 31 at the Cascadia Hotel, at the emancipation dinner speech, he said:

“...no member of a multiracial society should feel snug and secure in the fact that 80 per cent of its university student body consists of one race and where no one seems to be even thinking of the consequences of such a development.”

This above statement was published in the *Guardian* on August 02, 2003 and again in the same newspaper of August 16, 2003. The speech was entitled: “Towards a common goal”. Prof. Cudjoe said he does not believe that we have a race problem in the country and what we have here, fundamentally, are misunderstandings of theology, beliefs and the impact on national life.

In the *Guardian* of August 26, 2003 he said:

“I continue to believe that the larger communal interest of a multiracial society cannot be served if 80 per cent of the students of UWI and 75 per cent of the students at the T&T Institute of Technology (TTIT) are Indians especially when the selection process is not entirely objective.

One becomes even more circumspect when Africans in the main believe that Indians, particularly those of the Hindu faith, are inclined to look after their own interest...”

That was Prof. Selwyn Cudjoe.

The *Express* of October 03, 2003 states that the criteria other than grades or more precisely standardized tests, should be considered when a student is being selected to attend university.

Madam President, when I was Clinical Vice-Dean of the Medical School I sat on the Admission Committee for three or four years for medical students coming in. Do you think in our wildest imagination—Professors Ramchand and Deosaran are from the university—we can accept students based on their ability to play football. In one year, at the admission exercise, we had over 110 students with three “As” and an “A” in General Paper and we had only 40 places for medicine. He is telling us to bring in football. How is that possible? We would be lowering the standard.

3.30 p.m.

Madam President, professors abound in the United States of America. I think we better look at Prof. Cudjoe’s credentials. [*Laughter*] You know, in the English system, a lecturer is an assistant professor, and a senior lecturer is an associate professor. In the American system, if you are teaching in a college or a university, you are a professor, but that is not so in the English system. In the English system, you have to fight for the post of professor—you have to work hard and you have to publish. If you do not publish, you would perish. One could ask Dr. Cudjoe about that. He would know about that. He is a Director of the Central Bank. What are the credentials to sit on the Central Bank Board? He is dealing with monetary and fiscal policies and he has been lecturing in literature and so forth.

I do not want to really get down on any particular person, but when you have this type of person in a society preaching, culturing and further nurturing the imbalance in the society—antagonism and hatred—that is not desirable. He should take a back step and understand that this is a society that does not need this

type of intellectual discourse. The Government should disassociate itself from those types of statements when they are made. [*Desk thumping*]

In fact, I just want to quote from the *Express* dated September 10, 2003 where Sen. The Hon. Danny Montano disassociated himself from that statement.

“UWI imbalance is not race related, says Montano”

by Andy Johnson. Selwyn Cudjoe said that it was race related. Montano disproved the notion of discrimination at the University of the West Indies. That is an honourable guy to make this statement. The Senator disassociated himself from that statement. I wish that all the other Senators would disassociate themselves from Dr. Cudjoe, until he comes to his right senses and begins to speak collectively and constructively, rather than destructively for the society.

Sen. R. Montano: Well, you know, he is my little brother.

Sen. Dr. T. Gopeesingh: Well, Robin, you should be proud of your brother.

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

Motion made, That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. W. Mark*]

Question put and agreed to.

Sen. Dr. T. Gopeesingh: Madam President, thank you very much and I would also like to thank hon. Senators for allowing me a few minutes to wrap up. [*Interruption*] When Sen. The Hon. Danny Montano was asked about his view on the recent statements made by Cudjoe:

“...Montano said he was ‘not happy with all of this,’ ... ‘It’s the easiest thing to wave a racial flag at every turn, but the reality may not turn out what it looks like at first blush’, he said.”

That is what some of his colleagues had to say.

Madam President, Prof. Julien Kenny, who had been an honourable Member of this Senate for a number of years said in the *Express* dated September 23, 2003:

“The attack is clearly on the university itself and is obviously founded on premises other than academic ones. But pity the poor UWI students in future as they submit their forms prior to acceptance and registration—birth certificates, A’Level certificates, medical certificates...”

What is Cudjoe saying?

The Vice-Chancellor, Rex Nettleford, in the *Express* dated October 01, 2003:

“...dismissed notions of affirmative action at UWI as a ‘waste of energy’, saying that to get ‘bogged down’ by racial structure was a dead end.

He said any effort to discriminate ‘should not be taken on.’”

This is what we are seeking to do, to prevent the discrimination in the society. [*Desk thumping*] It is coming from the highest institution, the University of the West Indies, the institution that keeps us together, besides cricket, and to keep our minds calm and to educate ourselves.

“‘Certainly we are not going to keep anybody out...So-called East Indians are as ‘West Indianised’ as those of African descent’, Nettleford said.”

This is how we must be thinking. We must be thinking of the middle of the road and not on either side—whether it is the African political spectrum or the East Indian political spectrum. We build a society based on meritocracy and we go middle down the road, and we would get what we want based on our ability to perform and competence.

In response to Cudjoe’s allegations that Indian teachers discriminate, the Trinidad and Tobago Unified Teachers Association (TTUTA) President, Trevor Oliver, said that there is no evidence to suggest that teachers in Trinidad and Tobago—regardless of ethnic background—discriminate against students on the basis of ethnicity. In my life, I have been a teacher and there are so many of us—do you think that we could have looked at a student and said, “Well, you are of one ethnic origin and the other student is of another ethnic origin”? We have to be mad or crazy! Or, as a doctor, I attend to patients and I would say, “Well, you are of one ethnic origin,” and look at hair, colour and skin! No, we have lives to save; we have to prevent the loss of lives. We cannot do that.

Sen. Mark: Only Cudjoe could do that.

Sen. Dr. T. Gopeesingh: Thank you, Wade. Madam President, I just want to quote the real figures with respect to children who have registered with the College of Science, Technology and Applied Arts of Trinidad and Tobago (COSTAATT) for the 2003—2004 academic year. The number of students registered is 257. These students are identified by names, so we cannot say that the people mixed up their names and so forth. We believe that there may be East Indians—registered, 594; other races registered, identified by non-East Indian

names, 1,463. So, therefore, the percentage of Indians identified by name is 28.2 per cent, and the percentage of other races identified by non-Indian names is 71.8 per cent. This is directly opposite to what this guy said originally. So, therefore, only 28 per cent of the students at COSTAATT, by virtue of recognition of their names are of East Indian descent. So, if this is so, why are the Member of Parliament for Diego Martin West, and his political guru, Selwyn Cudjoe, intent on perverting the admission process to recruit people based on other criteria?

Madam President, the situation has become so bad that a senior high authority in Trinidad and Tobago—higher than us in this Senate—set up the National Self-Discovery Committee. That committee is to improve race relations and to develop strategies for unearthing such knowledge and presenting it systematically to the national community over a period of years.

I want to proffer here today, that if we look at all the state enterprises and do an empirical analysis of the workforce of the Water and Sewerage Authority (WASA), Trinidad and Tobago Electricity Commission (T&TEC), Telecommunication Services of Trinidad and Tobago (TSTT), Point Lisas Industrial Port Development Corporation Limited (PLIPDECO) and Central Bank—you name the state enterprise—you would see massive imbalance and inequity in the employment practices. Why should this inequity continue? It is in the police service, the defence force, the public service and everywhere that you go, and they want to tell us now that there is disparity in the admission at the university. That does not even prevail there.

I would like to suggest to this Government that if they really want to think about anti-discrimination, and if they are really serious about not having discriminatory practices, they should do an empirical analysis of all the public sector organizations, they are going to get the first hunch that something is radically wrong in this society. In fact, if the Government does not do it, we would try to do it. We would ask questions and the answers would have to be given. I know that the Government breaks away from giving answers and, therefore, we may not get the right answers, but the research ought to be done.

Madam President, then there is discrimination of unemployment at the lower socio level—the Community-based Environmental Protection and Enhancement Programme (CEPEP), the National Entrepreneurship Development Company (NEDCO) and the Unemployment Relief Programme (URP). There are 48,000 ghost gangs in the National Housing Authority (NHA), and there are contractors who are all related to the PNM in CEPEP. Fifty thousand dollars is being given

away to contractors. This is radically wrong! You just do not throw away money because of social programmes. The people should be educated and trained and then they should be given the jobs. [*Desk thumping*] How long is the Government going to continue to give handouts to CEPEP, NEDCO, URP and NHA workers and so forth? How long is the Government going to continue doing that? This is the reason we have not come to the economic type of growth level that we need in Trinidad and Tobago.

We are nurturing a bunch of people who would be contented to sit back and get handouts, when the Government should be telling these people that they are going to train and educate them and give them the money. If the Government is giving \$60 to students who want training—work half day and then train—that is fine, but do not just give them handouts.

Madam President, who are benefiting from this \$50,000 per month? The contractors are benefiting and they are all PNM stooges. We have A.E. Rasolli Maintenance Services Limited, Marva Bostic; Beautification and Sanitation Company Limited, Suresh Seecharan, director, Junior Regello; Answer Maintenance Limited, Ainsley Matthews, PNM San Fernando West activist; Enviropo Limited, John Leslie Ross, PNM activist, San Fernando; Cornerstone Environmental Maintenance Limited, PNM activist; Cut-Clean and Clear Maintenance Services Limited, PNM San Fernando West activist; Danavin Company Limited, Alvin Reeves, PNM San Fernando City Councillor; Marryshow Maintenance Services Limited, PNM candidate for the Local Government elections in Marabella West; Miracle Brite Maintenance Company Limited, Shirlyn Nickles, San Fernando East PNM activist and so on. Why this must go on! What has happened to the other sectors of the society? Is it that if you belong to the UNC you must not get anything and if you belong to the PNM you must get?

Madam President, you see, our Westminster system of First-Past-the-Post and the winner takes all, is fundamentally wrong. This is what is causing the problem in our society, and as our political leader mentioned: We have to enumerate and identify the problems in the society, and when we do that we would be able to put solutions, and this would help us to effect the constitutional reform that we need to effect. [*Desk thumping*] CEPEP contractors are PNM blinks—Prakash Persad, Lionel Beckles, Horace Gordon, husband of Marilyn Gordon, former PNM Minister, \$332,000; Environmental Improvement Company Limited, Fyzabad activist, Charmaine Cummings, chairman of PNM Naparima constituency, \$387,000; Stanley Butcher, brother of Ken Butcher campaign manager for the PNM Barataria/San Juan constituency, \$569,000; Lionel Beckles, father of Penny

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Beckles, \$503,000; M/S Community Maintenance Limited, Mac Donald Padmore, PNM Barataria activist, \$365,000. Are we in a state of just giving out money? Is that governance?

Madam President, Mr. Manning's spiritual leader, is a guy called Sterling Belgrove. Sterling Belgrove runs the Rose Foundation, and every contract in NEDCO has to go through the Rose Foundation. There is also Ricardo—

Sen. Yuille-Williams: With due respect to the hon. Senator, I think the Senator needs to be careful about some of the statements that he is making. I just heard the Senator talk about a spiritual leader. I just want to warn the Senator that he should withdraw that statement. The Senator knows that I am very kind in that way.

Sen. Dr. T. Gopeesingh: Madam President, I take what the Senator has said and I would like to withdraw it.

Sen. Yuille-Williams: Thank you.

Sen. Mark: But he is his spiritual advisor!

Madam President: Sen. Dr. Gopeesingh, I am pleased with your decision, please continue.

Sen. Dr. T. Gopeesingh: I am sorry about that part. Madam President, then there is Helping Youth Prepare for Employment (HYPE) and so forth.

I just want to end by giving this Senate some useful quotes. On Friday, June 27, this is what Mr. Patrick Manning said: "The PNM is yet to achieve interracial solidarity." Again, on Friday, June 27, in Chaguanas, Mr. Manning said: "It would be a glorious day when the composition of PNM is a reflection of the society from which we come." But he is the leader; make it happen. Again, on Friday, June 27, in Chaguanas, Mr. Manning said: "That is yet to happen ladies and gentlemen. It has not happened, but over the last 47 years successive PNM leaders, PNM politicians, members of the youth league, members of the women's league and rank and file party members have worked hard, long and tirelessly to bring that dream together." Imagine after 47 years!

I just want to end by quoting from the *ILO Global Report (2003)* on discrimination and it says:

"Discrimination deprives people of their voice at work and full participation, thus undermining democracy and justice. The elimination of discrimination is essential if the values of human dignity and individual

freedom, social justice and social cohesion are to go beyond formal proclamations. The elimination of discrimination is an indispensable component of any strategy for poverty reduction and sustainable development.”

We would like to ask the Government, through this honourable Senate, to stop its discriminatory practices and, therefore, stop the degradation of our society.

This last quotation is from one of the greatest leaders in the world over this last century, Mr. Nelson Mandela. Mandela was convicted and sentenced to five years imprisonment. While serving his sentence he was charged, in the Rivonia Trial, with sabotage. Mandela’s statements in court during these trials are classics in the history of the resistance to apartheid, and they have been an inspiration to all who have opposed it. His statement from the dock in the Rivonia Trial ends with these words. I give this to this honourable Senate:

“I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.”

I leave this honourable Senate with this quotation and I would like to ask the hon. Senators on the other side to ensure that we stop the discrimination and bring the Equal Opportunity Act into focus, by effecting the commission and the tribunal.

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

ADJOURNMENT

The Minister of Community Development and Culture (Sen. The Hon. Joan Yuille-Williams): Madam President, I beg to move that the Senate do now adjourn to Tuesday, May 04, 2004 at 1.30 p.m. On that day, we would like to begin with the Motion re: the Agricultural Census Order, the Accreditation Council of Trinidad and Tobago Bill. If we have time, we would do the amendments to the Telecommunications Act and the Insurance Regulations.

Madam President: Hon. Senators, there is a matter to be raised on the Motion for the Adjournment of the Senate.

Political Interference in Institutions

Sen. Wade Mark: Madam President, thank you very much. In the past 28 months, Trinidad and Tobago has witnessed an unprecedented and absolutely frightening rate of political interference in key and sensitive institutions of this nation by the present regime. This is cause for alarm and grave concern by all right thinking citizens.

The Trinidad and Tobago Government, which is the PNM administration, has interfered with the customs, conventions and traditions associated with the police service—one would recall when the Prime Minister handed the letter of appointment to the then Commissioner of Police.

There was political interference at the level of the Industrial Court with the recent appointment of judges; there was political interference recently with the Government's attempt to deny the appointment of Dr. Colin Furlonge to the post of Medical Chief of Staff in San Fernando, as well as in Port of Spain; there was political interference in the granting of a radio licence to a particular friend of the PNM; and there was also political interference, which is the latest round, in the Judiciary of this country.

Madam President, I want to bring to your attention, an allegation that was made and which has not been formally denied, concerning political interference by a senior government official in a matter involving the release of two Bajan fishermen, as you would recall, sometime ago. There are grave implications involved here for the rule of law, as well as the separation of powers doctrine.

Madam President, under section 90 of the Constitution of the Republic of Trinidad and Tobago, the only person that is responsible or charged with the responsibility to discontinue criminal proceedings against anyone in this country is the Director of Public Prosecutions (DPP). From all of the evidence available, the DPP did not issue any such instructions and, therefore, the DPP has called for an investigation into the release of these two Bajan fishermen. This is a dangerous development that is taking place in Trinidad and Tobago. In fact, it is a kind of incipient dictatorship or totalitarianism that we are witnessing in our country.

I want to make reference to an article in the *Express* dated Tuesday, February 17, 2004. The headline is: "Really, why did those fishermen go Free" and I quote:

"On February 7, the Trinidad and Tobago Coast Guard arrested two Barbados fishermen, Joseph Mason and Samuel Brace, for allegedly fishing illegally in this country's waters.

But two days later, on Monday February 9, when the case went to court, both fishermen were freed after Scarborough Magistrates' Court prosecutor Cpl John Morrison told Magistrate Joan Gill he would not be offering any evidence in the matter."

It goes on:

"And according to the Senior Police Superintendent in charge of Tobago, Benjamin Watson, the Barbadian fishermen 'were not arrested in error, according to the facts unearthed at this time.'

Attorney Christo Gift, who was in a courtroom on February 9, told this newspaper that Cpl Morrison had indicated to the magistrate that he was acting on instructions from a government minister."

Madam President, this was quoted in the *Express*. There are some serious questions that have arisen based on that particular statement. We would like to know who is the government Minister that issued the instructions to the police prosecutor who is charged with the responsibility of prosecuting on behalf of the State. Why did the prosecutor comply with that instruction? Was the DPP consulted? Why did Magistrate Joan Gill simply facilitate this travesty of justice? Are there any other matters where government Ministers have instructed the police?

Madam President, only recently the Court of Appeal expressed alarm about the decision of the State to drop a passport fraud case against a San Fernando man, in circumstances in which there was strong evidence against that individual. In fact, the Appeal Court has called on the DPP to conduct an immediate investigation into the way this accused was discharged.

After some 10 weeks of dilly-dallying and playing hide and seek, there is a growing perception that there is a plot, at the highest level of government, to cover up this scandal and save the ruling party, the PNM, from a major scandal in this country. Indeed, information reaching us has revealed that a senior public officer, attached to the Ministry of Foreign Affairs and a police officer are set to take the fall for this illegal intervention. This is a serious matter and it strikes at the heart of the independence of the police service and the criminal justice system in our nation. It also violates the doctrine of the separation of powers and undermines the political independence of the criminal justice system and the police service in Trinidad and Tobago. [*Desk thumping*]

Sen. D. Montano: Madam President, on a point of order. The hon. Senator said a few moments ago that a senior public officer in the Ministry of Foreign

Affairs, and a police officer are set to take the fall. Someone had to say that and the inference is clear that the Government has some improper intention here. If you go back to your ruling of last week, that is out of order, and the Senator must withdraw that.

Sen. W. Mark: No, I am not withdrawing anything. [*Interruption*]

Madam President: Minister Montano, you would have an opportunity to reply and I would hope that when the Minister is replying that he would address that issue.

Sen. W. Mark: Madam President, thank you very much. The police service is an integral part of the criminal justice system. This national scandal holds great consequences and implications to the much-touted Caribbean Court of Justice, where Government Ministers could direct or influence the administration of justice. We are talking about the Caribbean Court of Justice, and look at what is happening in our present system.

We cannot allow this dangerous precedent to go unchallenged; we cannot allow this crude infiltration and manipulation of our criminal justice system to die a silent death. The deafening silence of the authorities, including the Attorney General, the Commissioner of Police and even the DPP, in which a criminal offence has been committed, is absolutely amazing and scandalous. This blatant political interference is tantamount to misconduct in public office and it is an attempt to pervert the course of justice and these are serious criminal charges. [*Desk thumping*] The DPP seemed to be caught up in a conspiracy of silence. Is the DPP an unofficial member and supporter of the PNM? Why is a government Minister being protected from criminal prosecutions? This scandal could lead to criminal charges being laid against that particular government Minister.

The UNC is calling on the DPP to state his position on this growing political and national scandal in our country. This political scandal would not be allowed to die a natural death. We in the Opposition would keep it alive every Tuesday, until the Government tells the country who is the Minister that gave the instructions. It would not die a natural death.

Madam President: There is no need for you to shout.

Sen. W. Mark: Madam President, I am sorry. You know, I am very passionate on these matters, but I would boil down.

Madam President: Let me tell you, at this point, you have two and a half minutes.

Sen. W. Mark: As a last resort, when all else fails, we are calling for a public commission of enquiry into all the circumstances surrounding the release of these two Bajan fishermen, who were caught and charged for allegedly fishing illegally in Trinidad and Tobago waters.

Public accountability and the maintenance of the independence of the police service and the criminal justice system demand nothing less and, therefore, we call on the relevant Minister to come clean on this matter. We intend to ensure that this matter is kept alive on the front burner until there is accountability, and a criminal charge brought against the individual who interfered and infiltrated in the criminal justice system in Trinidad and Tobago.

Madam President, I thank you. [*Desk thumping*]

The Minister of National Security and Rehabilitation (Sen. The Hon. Martin Joseph): Madam President, according to the information received from the Trinidad and Tobago Defence Force, on February 06, 2004, at around 5.21 p.m. members of the Trinidad and Tobago Coast Guard, while on routine patrol in the exclusive economic zone of Trinidad and Tobago, off Crown Point, Tobago, intercepted two Barbados vessels, P16, "The Boys" and P28 "Elery Test". The vessels with their catch were subsequently handed over to the Scarborough police and formal charges were laid against the captains for the offence of fishing in the exclusive economic zone of Trinidad and Tobago without a licence, issued by the Minister, to whom the responsibility for fishing is assigned.

Madam President, according to information received from the Trinidad and Tobago Police Service, when the matter was called at the Scarborough Magistrates' Court on Monday, February 09, 2004, the court prosecutor offered no evidence against the accused and, as a result, the presiding magistrate discharged both cases.

The circumstances surrounding the tendering by the prosecutor of a no-evidence plea are currently being investigated. I do not propose to prejudge the outcome of those investigations or to comment on many of the misleading allegations, which are being bandied about.

The procedure in matters of this nature is quite clear. The DPP is the sole power, under the Constitution, with the authority to properly terminate a criminal proceeding.

In these circumstances, I would therefore caution against assuming negative implications on the criminal justice system.

Madam President, I thank you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.00 p.m.

WRITTEN ANSWERS TO QUESTIONS

The following questions were asked by Sen. Wade Mark:

**Germanisher Lloyd Report
(Fantuzzi Crane)**

14. Could the hon. Minister of Trade and Industry and Minister in the Ministry of Finance provide the Senate with the following:

- (i) copies of the technical evaluation report issued to the PLIPDECO Management by Incorrtech; and
- (ii) copies of the Germanisher Lloyd Report regarding the inspecting of the Fantuzzi crane?

The following reply was circulated to Members of the Senate:

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): Three copies of the technical evaluation report issued to the PLIPDECO Management by Incorrtech have been lodged with the Clerk of the Senate, together with three copies of the Germanisher Lloyd Report regarding the inspection of the Fantuzzi crane.

**Report of Investigation
(New Gantry Crane)**

23. Could the hon. Minister of Trade and Industry and Minister in the Ministry of Finance provide the Senate with a copy of the report of the investigations conducted by the local Mechanical Engineering Consultancy Firm on the new multi-million dollar Gantry crane at PLIPDECO?

The following reply was circulated to Members of the Senate:

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): No investigations were conducted by any local mechanical engineering consultancy firm on the Gantry crane.

Incorrtech Limited, a local engineering inspection and quality control firm, was called in to investigate a steering failure on the new mobile harbour crane in September 2003. Three copies of Incorrtech's report have been lodged with the Clerk of the Senate.

**New Gantry Crane
(Purchase of)**

24. A. Is the hon. Minister of Trade and Industry and Minister in the Ministry of Finance aware that the purchase of the new Gantry crane ordered by the board of PLIPDECO was made against the advice of many senior managers and qualified technocrats?
- B. Could the Minister provide the Senate with the relevant reports, documents and feasibility studies which informed the decision of the Chairman and Board of Directors of PLIPDECO in finally deciding to order the new Gantry crane from a company in Italy?

The following reply was circulated to Members of the Senate:

The Minister of Trade and Industry and Minister in the Ministry of Finance (Hon. Kenneth Valley): The Minister is not aware that the purchase of the new Gantry crane ordered by the board of PLIPDECO was made against the advice of many senior managers and qualified technocrats because the purchase of this new Gantry crane from Liebherr Container Cranes Limited was, in fact, supported by the management of PLIPDECO.

The board of PLIPDECO did not purchase a Gantry crane from an Italian company.