



*Leave of Absence*

*Tuesday, May 18, 2004*

**SENATE**

*Tuesday, May 18, 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 Sen. Robin Montano from today's sitting of the Senate.

**SENATORS' APPOINTMENT**

**Madam President:** Hon. Senators, I have received the following correspondence from His Excellency, President 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: DR. TIM D. GOPEESINGH

WHEREAS Senator Robin Montano 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 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 Robin Montano.

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 17th day of May, 2004.”

**OATH OF ALLEGIANCE**

*Sen. Dr. Tim D. Gopeesingh took and subscribed the Oath of Allegiance as required by law.*

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Central Marketing Agency for the year ended December 31, 1990. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Central Marketing Agency for the period January 01, 1991 to August 16, 1991. [*Sen. The Hon. C. Enill*]

**WRITTEN ANSWERS TO QUESTIONS**

**Madam President:** Hon. Members, there are no questions for oral answer on the Order Paper today. However, we have received responses to questions Nos. 20 and 21 which have been circulated. If there are any more responses to written questions they should be passed to the Clerk for circulation.

**Sen. Mark:** Madam President, if you look at the Appendix you would see at least four questions that are outstanding since February 27<sup>th</sup> and we are now in May. I think that is long overdue and you could probably make a ruling that these answers ought to be here very quickly.

**Madam President:** Leader of Government Business, see whether you can get those answers for us at the earliest opportunity.

*The following questions were asked by Sen. Wade Mark:*

**Mount Hope Women's Hospital  
(Recent Neo-natal Deaths)**

- 20.** Could the hon. Minister of Health provide this Senate with:
- (i) a copy of the report submitted to him by Dr. Petronella Manning-Alleyne concerning the recent deaths of scores of infants at the neo-natal unit of the Mount Hope Women's Hospital;
  - (ii) the details surrounding the circumstances of the deaths of infants at the neo-natal unit referred to in (i); and
  - (iii) the details of any recommendations aimed at preventing a reoccurrence of similar deaths which may have been submitted to the Ministry of Health?

**Mount Hope Women's Hospital  
(Detailed Breakdown of Neo-natal Deaths 2003)**

21. Could the hon. Minister of Health provide the Senate with:
- (i) a detailed breakdown on a monthly basis for the year 2003 of the total number of deaths of infants at the neo-natal unit of the Mount Hope Women's Hospital; and
  - (ii) a copy of the report submitted to the Ministry of Health by the Pan American Health Organization (PAHO) relating to the status of the neo-natal units at the major hospitals in Trinidad and Tobago?

*Vide end of sitting for written answers.*

**DIPLOMATIC MAIL**

**The Minister of Foreign Affairs (Sen. The Hon. Knowlson Gift):** Madam President, my ministerial colleague, hon. Eric Williams had cause to make a statement in this honourable Senate on Tuesday, May 11, 2004, in respect of an unfortunate discovery of illegal drugs found in the diplomatic mail of the Ministry of Foreign Affairs. As this honourable Senate is aware, I was out of the country on official business at the time when the information was provided by my colleague, hon. Eric Williams.

I am sure that all hon. Senators understand that my responsibility is to Parliament for the activities assigned to me. I accordingly accept full ministerial responsibility for all matters that fall under my purview as Minister of Foreign Affairs.

Members are no doubt aware, that there are ongoing investigations in respect of certain specific matters arising out of this most unfortunate incident. Prudence dictates that some things should not be publicly stated at this point in time.

However, I wish to inform the Senate that before leaving Trinidad and Tobago on my official visit overseas, I had held discussions with the appropriate personnel of the Ministry of National Security, to ensure that the diplomatic mail of Trinidad and Tobago would not be used in any manner that was either illegal in Trinidad and Tobago, or inconsistent with the international norms to which Trinidad and Tobago subscribes. My efforts and the very professional work of our police service ensured that the would-be abuse of our diplomatic communication was discovered and appropriate action taken by the police service.

*Diplomatic Mail*  
[SEN. THE HON. K. GIFT]

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As I said earlier, these investigations are continuing, but I must stress that the discovery was the result of the work of professional and trustworthy public officers, within the Ministry of Foreign Affairs and the police service. I wish to assure this honourable Senate and the national community that steps have been taken to ensure that these shortcomings are eliminated.

I give the Senate the further assurance that the ministry would continue as it has done in the past, to act with utmost professionalism in the discharge of its duties in the advancement of the interest and good name of Trinidad and Tobago.

Thank you.

**CONDOLENCES**  
**(Mr. Nizam Baksh)**  
**(Death of Son)**

**The Minister of National Security (Sen. The Hon. Martin Joseph):** Madam President and hon. Senators, on behalf of the Government of Trinidad and Tobago, I wish to express my condolences to the Member of Parliament for Naparima, Mr. Nizam Baksh, his family and friends on the tragic and untimely passing of his son Ashmead.

As I had indicated to the hon. Member, upon receipt of the news of his son's disappearance, all the required resources at our disposal would be mobilized in an effort to return his son safely home. Unfortunately, notwithstanding the efforts of all the security agencies, he was murdered within hours of his abduction being reported to the police.

The Commissioner of Police would shortly be providing to the general public, as much information as is prudent at this delicate stage of the investigation and will continue to do so as the investigation proceeds.

While I understand the acute desire on the part of the public for the details of the case, such desire must be balanced with the perhaps more important imperative of not compromising or prejudicing the investigation, so that in the final analysis everything would have been done to ensure that the perpetrators are brought to justice. This Government continues to take all steps to ensure that all the necessary resources are provided to our security agencies in order to curb the alarming incidence of criminal activity. We all have a part to play in the quest for improved public safety.

I take this opportunity to appeal to the entire citizenry and in particular to those in a position of influence to take this responsibility seriously, so that together we can restore a sense of enduring peace and security to our country.

*Condolences*

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May God bless us. May God bless our nation.

Thank you.

**Sen. Dr. Eastlyn McKenzie:** Madam President, would I be permitted to speak?

**Madam President:** Yes.

**Sen. Dr. Eastlyn McKenzie:** Madam President, I know that this is not the appropriate time, but I seek your permission to make a brief statement on behalf of the Independent Bench, not only to express our condolences to my very good friend of 32 years, Nizam Baksh who worked with me in community development and his family and relatives, on the untimely and cruel passing of his son Ashmead.

On our behalf, I express condolences to our colleague Sen. Sadiq Baksh and to say how very sad we are about the passing of not only Asmead, but also all the people in Trinidad and Tobago who have been murdered. We hope that our concern as expressed would bring some sort of solace to the family. I know from experience that only time heals. Let us as a nation rally together to do what we can to minimize the type of cruelty that we have in this country.

Our condolences to the family and relatives and to Sen. Sadiq Baksh. We know how you are hurting. We want to say to you, we are indeed sorry.

Thank you.

**Sen. Wade Mark:** Madam President, Nizam Baksh is a colleague and a Member of Parliament. Once we heard of this particular development we sought to put our hands, minds and hearts together to see what we could have done to ensure that his son Ashmead Baksh would have been released safely and returned to the hands of his wife, children and relatives. Unfortunately, that was not to be. We rallied with our colleague Sen. Sadiq Baksh. A number of us rallied with the family throughout the ordeal hoping that Ashmead would have been released. Unfortunately, he was murdered, butchered, slaughtered and executed in a most tragic manner.

Having regard to my information and visiting the community, I am convinced that this mechanical engineer was a model, light and inspiration to the young people in the community. This is why yesterday when we were there, they came out in their thousands to pay their respect to this son of the soil. It is a period in time when we know that the villagers themselves worked exceedingly hard. On behalf of the United National Congress, I convey our profound appreciation to the

*Condolences*  
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villagers. They intervened in a very direct way which resulted in two of the criminals being apprehended and handed over to the police. That is to tell you how tight-knit the community is and how they function, that they went to search for this chap.

On behalf of the United National Congress, we would like to put on record our profound sadness over the tragic loss of the life of not only Ashmead, because we know many other persons have perished under similar circumstances in this country over the last period.

We hope that the Government of Trinidad and Tobago would find the necessary resources to equip the police and provide them with the wherewithal. I am saying that when a son of a Member of Parliament is murdered in a country, every single Member of Parliament has to be worried. If criminals can snatch your son or daughter and murder him or her in the way that they did, they can do it to any Member of Parliament, whether they be Government, Opposition or Independent. I hope that the Government takes this matter as a wake-up call and takes action to ensure that the slide that this country is in, is brought to a close and an end as quickly as possible

On behalf of the Opposition, the United National Congress, we extend our profound condolences to the wife and children, the family of Nizam and all the relatives of the Baksh's family on this very sad occasion. We look forward to an end to this madness that is taking place. We hope that the Government which has the responsibility to protect and safeguard the property, limb and life of every individual would take appropriate measures to ensure the peace, safety and security of all the citizens.

Thank you.

**Madam President:** I too join with the Government, Opposition and Independents in extending my personal condolences to Mr. Nizam Baksh and Sen. Baksh. Like everyone else, I was shocked by the whole incident and the very fact that this young man was murdered, particularly having a son of the same age. I think that for many of us who have children of that age, it was something the whole nation felt. It is most unfortunate that it has happened. I am glad that today, we have received some reassuring words from the Minister of National Security. We hope that with the efforts of the police that this sort of thing would not happen again.

Sen. Baksh, please convey our condolences to the rest of the family, on behalf of all the Senators and myself.

Thank you.

**TELECOMMUNICATIONS (AMDT.) BILL**

[Second Day]

*Order read for resuming adjourned debated on question [11<sup>th</sup> May, 2004]*

That the Bill be now read a second time.

*Question again proposed.*

**Madam President:** It is my understanding that Sen. The Hon. Dr. Lenny Saith was in the process of beginning his reply.

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Madam President, let me begin by thanking all Senators who have contributed to this debate, from the very technical contributions of Sen. Seepersad-Bachan and Sen. Mary King, to the normal esoteric, philosophical contribution of Sen. Bro. Noble Khan; Prof. Ramchand who reminds us that socialism and Marxism are still alive, to Prof. Deosaran for what I consider a very balanced contribution, clearly defining the competing interests which one seeks to satisfy, in such a piece of legislation; Sen. Pau who made his maiden contribution; Sen. Mark in his usual fashion, partisan, paranoid and illogical, but making his point; and finally, Sen. R. Montano who livened us up as we were approaching midnight with his melodrama. Rather than address individual contributions made, I picked the highlights of contributions to respond to them. I would also circulate a number of amendments which I hope would satisfy some of the points that were raised during the debate. In the committee stage we would deal with them.

We all agree that this Bill is significant and affects the telecommunications landscape in Trinidad and Tobago because it is implementing a suitable legal and regulatory framework for development of the sector. Because of this importance, I think that I should reaffirm Government's policy for the sector. Briefly, the policy is as follows: to establish the necessary legal and regulatory framework for the sector and to liberalize the telecommunications sector to allow for the introduction of competition in all segments. The key objective of this activity is to reduce the price of telecommunications; to increase the range, scope and quality of the service which is available to the public; to encourage the availability of choice of telecommunications services to the public at affordable prices and to honour the country's commitment to the World Trade Organization in respect of such services.

As a result, it is expected that the measures that have been introduced would place Trinidad and Tobago on track to fully exploit telecommunications both in its quest for capacity and as a driver in the process of transformation of other sectors of the economy. It would universalize services to allow the vast majority of the population to have access to a variety of services at affordable rates.

A number of issues relating to governance were raised in terms of the relationship between the Authority, the Minister and how it is governed. I wish to advise the Senate that the board for this Authority was appointed on July 25, 2002. The board members currently serving are Dr. Ralph Henry, an economist as chairman; Mr. Khalid Hassanali, an engineer/attorney as deputy chairman; Prof. St. Clair King, an engineer/lecturer as a member; Dr. Ronald Ramkissoon, economist, member; Dr. Kim Mallalieu, engineer/lecturer at UWI, member; Mrs. Carol Clarke, Permanent Secretary, member; Ms. Beverly Beckles, attorney at law, member; Ms. Gillian Bishop, artist, member; Mr. Learie Allan Forte, member and Mr. Cagney Cassimire, management consultant, member. I hope that satisfies Sen. Mark that there are no stooges on this Authority.

The board proceeded to recruit an executive director of the Authority and after a search of approximately one year, the selected person declined to take up the offer. A new search was commenced and the appointment of an executive director is expected within the next two weeks. Notwithstanding the absence of the executive director, the board and the ministry have been working on a number of matters concerning the overall governance of the Authority. For instance, an interim organizational structure has been finalized and approved. Recruitment of staff has started and the headquarters has been identified and is currently being outfitted. I am told that the Authority would be moving into those headquarters on July 01.

A national spectrum audit towards the development of a national spectrum policy is currently on the way. A consultancy for the development of regulations is being sought, but at the same time, staff is working on a number of policies and regulatory issues. I merely want to indicate that concurrent with the work that we are doing here in Parliament, work is proceeding to make the Authority operational. When the Bill is proclaimed, the Authority would be ready to move forward with its responsibility under the Act.

During the course of the debate there were many questions about the Government's true intention for competition in the sector and in bringing these amendments. The accusation was made that we want to maintain an anti



competitive framework which would somehow benefit the Telecommunications Services of Trinidad and Tobago (TSTT) and Cable & Wireless. An impartial analysis of our proposal would clearly demonstrate that it is not so. I would take some of the issues raised. Suggestions have been made that the Government is seeking the interest of the monopoly provider and we are attempting to put call centres out of business. May I say categorically, that this is not so. The operators of call centres are claiming that the service they provide is a data service and therefore, outside the regulatory ambit of the Regulated Industries Commission (RIC) and more importantly, outside the ambit of this Act when it is proclaimed.

Based on international best practices, the operations of call centres are viewed as a public telephone service. Even without the amendments which are submitted before this Senate, I am advised that the operators of these types of businesses would have been required to seek a concession to operate their services when they want to do so. I am referring to the existing definitions of public telecommunications services, public telephone services and telecommunications in the original Act.

The issue of technology is entirely irrelevant since by virtue of the existing definition, it is the service that is the basis on which concessions are required. It is the service of voice transmission. In fact, the purpose of the amendment is to change the definitions to ensure that they are technologically neutral and do not bring in any entity that was not previously included under the regulatory ambit. Government's Fast Forward initiative—it is on its way and I think that it was laid in this Senate—is based on the development of the ICT sector which includes a wider participation of telecommunication throughout the country, including the establishment of community access centres in the rural and other disadvantaged communities.

We see call centres as one avenue of assisting in the expansion, not only of the telephone service, but also as a developmental tool to realize the full potential of Fast Forward. To this end, while I cannot speak at this stage to the regulatory framework for this and other providers of telecommunications, I suggest that it is in Government's interest to facilitate the development of call centres as a subset of the industry. The more we can make these facilities available to the public, the more likely we would be able to achieve the goals that we have set out in Fast Forward, which is to take telecommunications with it.

I met with three separate organizations that claimed to represent all the call centre operators between the time that we debated in the House and today. They

have been advised of this position. If any doubt remains, it is perhaps a misunderstanding of what regulations could mean to an industry as volatile as this one. In our view, regulations would serve to protect and aid the development of the small players in an industry which generally is dominated by the big guns. Some groups may come that may be bigger than TSTT. Let me answer one of the questions Sen. Prof. Ramchand raised. If this sector is so important, why are people not lining up to come? Believe me Senator, they are lining up to come in. We want to ensure that we have a process for selection which can stand the scrutiny of not only the public, but also the court, as was found out three years ago.

In this context, some have raised the question of whether we need a special majority because we are taking away a right that exists now. I am told that the call centres are operating in breach of the RIC. By seeking to bring them under regulation, we are not interfering with any property rights which they may have. Even so, I have submitted and there is an amendment to section 5, where we are explicitly saying that operators of call centres existing at the time that this Act comes into effect would be able to continue operations pending the processing of these applications. There is no desire or intention to close down anybody.

Let me turn to Internet Service Providers (ISP).

**Sen. Mark:** Who is going to determine the guidelines and criteria? Is it the Authority? When you say processing, could some of these people fail and some succeed? If they are existing already as call centre operators, there should be an automatic transition and there should be no question or query as to whether their applications would fail.

**Sen. The Hon. Dr. L. Saith:** Since the Authority has full independence in this matter, it is the Authority to determine how they proceed to use their powers to regulate. When you read the amendment you will see that there is a time period within which one can apply. Suffice it to say, the policy is not to close down anybody.

Internet service providers are also claiming that regulation of their services is an attempt to maintain the dominance of TSTT in this particular subset of the sector and that such control is as a result of the amendments put forward by the Government. Again, this is simply not true. The Act of 2001, proposed that any entity providing a public telecommunications service requires a concession so to do. The definition of public telecommunications service is very clear. It was always the case and continues to be the case. If an ISP is providing a public telecommunications service along with any other public telecommunications

service, an ISP would require regulations. Concessions would not be required if that ISP provides only value added service. If they are providing a value added service there is no need for granting them a concession. If however, they are also providing a public telecommunications service, there would be need for that portion to come under the ambit of a concessionaire. It is not the technology that would drive whether they are regulated, it is the service they are providing. If the service that is being offered falls under the definition of public telecommunications service, for that portion they would be regulated.

The Government's position with respect to this matter is quite clear. We are not trying to protect TSTT or Cable & Wireless. The Government will now have to review its ownership of TSTT. There is a committee working on that to see what would be the role if any, of the Government's investment in TSTT. The regulating function is now clearly with the Authority and they have to regulate the industry, including TSTT.

**Sen. Mark:** Madam President, through you, I want to ask the Minister whether he is telling the Parliament that there is a possibility that the Government of Trinidad and Tobago could privatize or divest shares in TSTT?

**Sen. The Hon. Dr. L. Saith:** We have to look at our ownership in TSTT to ensure that there is a Chinese wall between TSTT, Government's ownership and the regulatory body, so they can be treated as any other provider of service in the country and remove the fear that Government's ownership would be used to influence the Authority. That is why I took the time to read the names of the people who were appointed on the board.

Another issue was the question of the treatment meted out to customers by TSTT over the years. I particularly refer to section 24(1), where we talked about termination of services, where we were seeking to clarify how services should be terminated and the role of the Authority. As a result of the discussion, we are providing an amendment that makes what we are trying to do quite clear. It is not that we are removing the Authority from intervening between a user and a provider with TSTT or anybody else. We are saying that the Authority will set the guidelines by which users and providers would interact with each other. No provider can disconnect a subscriber on the basis of that portion of the bill. If you get a bill for \$1,000 and you pay \$800, the provider cannot disconnect you for \$200. That matter would go through the process of bilateral discussions and if there is no agreement, then it would be taken to the Authority. That deals with the feeling that one was seeking to remove the Authority from being a referee.

Why was there need for a floor price? As I indicated then and I would reiterate, we believe that the Authority must have some power with respect to this issue. It is not that they would use it. If a dominant provider, where it has the possibility of deep pockets to drive a competitor coming in one small sub sector and chooses to reduce the price to the point where it drives that provider out of business, the Authority must have some way of dealing with that. Not all the providers coming in would provide the full range of services that are required in the sector. I ask hon. Senators to support that context because if it is not established, we would be leaving a loophole in the way we price services.

The other issue was the question of the power of the ministry.

**Sen. Seepersad-Bachan:** Just a quick clarification. I do not understand the purpose of the floor price. The last time you mentioned that it was because of the predatory pricing. Is that the purpose of the floor price?

**Sen. The Hon. Dr. L. Saith:** Yes. The power of the Minister versus the power of the Authority, the governance issue. I think Sen. Prof. Deosaran raised this more than anybody else.

When I presented the amendments last week, I gave a number of reasons why these amendments were being proposed. The first one was to correct some drafting anomalies; the second was to ensure that the legislation was technologically neutral and would serve us even when there are changes in technology; to clarify ambiguous positions and to create a sustainable framework for competition in this sector. I do not believe that the amendments were in any way intended to increase the Minister's power or to reduce the power of the Authority. Where that impression may have been created, you would see from the amendments that we would leave what is there, if there is the slightest feeling that the Minister is taking more power.

In clause 18, we wanted to remove the potential conflict between technical standards where the Authority has the power to do it and subclause (f) where they had to advise the Minister. If the Senate so wishes I am prepared to withdraw that amendment and leave it as it is.

With respect to the spectrum plan we recognize that it has to meet international standards. We can withdraw that amendment. It is clear that is the amendment we want to give the authority because it is clearly the role of the Authority to do that. These are operational issues. We want to give the Authority operational autonomy in the conduct of everyday matters. There is a revised set of

amendments which clearly gives the Authority greater autonomy in operational matters. Where there was doubt or conflict we are making it quite clear. It should not be construed that the Authority has complete autonomy to operate as it may feel without the necessary checks and balances.

I wish to thank Sen. Prof. Deosaran for raising this point. I think he recognized and we must all recognize the requirement of accountability by the Minister to first of all, his Cabinet colleagues when he takes an oath; secondly, to Parliament where he has to answer questions and finally, to the people. Therefore, the question of policy, checks and balances has to remain in the hands of the Minister.

I have circulated a list of amendments and I will go through them very quickly.

**Sen. Prof. Ramchand:** Before the Minister proceeds with the amendments there is one point, a matter of principle, that I need clarification on. The Minister has made it clear that the people who are being appointed to the board are people of impeccable character and he trusts them not to be partisan in any way. While I can accept these particular persons, what is to say that if in the future, the fact that the Government has power to appoint the Authority, we do not get an Authority that would do the bidding of the Government and not be independent?

**Sen. The Hon. Dr. L. Saith:** This goes to the basic point of accountability and responsibility. I cannot say what would happen. I do know that if I am the minister today, I would abide by that. If I were president tomorrow you would have trusted me as the president to make these appointments; it does not change; I am the same person. If you have somebody who is willing—the difference is that in the case of the minister, he does not do this on his own. There are checks and balances; there is accountability. I firmly believe and I think that we have to come to that pretty soon. I do not accept this question of suggesting that politicians who have the responsibility must not be given the authority because somehow they are different. If Prof. Ramchand is president somehow he would make decisions that are independent; tomorrow if he becomes a minister of government the same Prof. Ramchand would suddenly lose all that. I do not accept that and I think that the country needs to come to grips with that.

**Sen. Prof. Ramchand:** Madam President, I do not want to debate with the Minister, but it is kind of spurious. The Constitution recognizes occasions when the President must have the power. I do not buy that argument, but I accept the explanation.

**Sen. The Hon. Dr. L. Saith:** I do not want to prolong the debate but the Constitution recognizes that there are instances when this may be required.

In clause 4, we have introduced the definition of “traffic” and one for “testing of traffic” to deal with the fear that somehow this meant that one would go into people’s email.

In clause 9, we are removing the proposed amendment to clause 18(b) and (f) which dealt with the question of the possible conflict between subclauses (d) and (f).

In clause 11, we are amending section 24(1), to ensure that the user of a service has some protection of the Authority before his or her service is terminated. We are amending section 24 to require all providers to refrain from cross-subsidization. The Act only talks about dominant provider. Pretty soon, if we get what we want, there would be more than one provider. We should not say the dominant provider cannot cross-subsidize but a new provider can. We are saying any provider cannot cross-subsidize.

We are amending clause 14 to add value added services as part of the universal service obligation, so that they may also be provided and funded in any arrangement that we make for funding universal service.

We are withdrawing the proposed amendment to section 29. In clause 19, we are introducing an amendment to give greater operational oversight to the Authority in respect of the licensing regime, where there was a question of whether these operational issues should not have remained with the Authority.

**Sen. Seetahal:** I heard you say that with respect to clause 15, you are withdrawing that amendment. I believe that you are withdrawing and substituting. Is it the whole clause?

**Sen. The Hon. Dr. L. Saith:** We are withdrawing section 29(3). We would discuss it in committee stage. Some consequential changes would come.

In clause 22 we are removing the proposed amendment to section 41(2), where we talked about the national spectrum plan being approved by the Minister and to leave it with the Authority. We have introduced a new clause 28 which would allow for the continued operation of call centres.

It is to be noted that the Telecommunications Act, 2001, was instituted to allow the liberalization of the sector in keeping with the requirements of the International Telecommunications Union (ITU) and the World Trade Organization

in respect of legislative reform in this sector. The proposed amendment has sought to keep the faith with these obligations which include the prevention of anti competitive practices in telecommunications, in particular anti competitive cross-subsidization, using information obtained from competitors with anti competitive results, and not making available to other services suppliers technical information about essential facilities and commercially relevant information on a timely basis, which are necessary for them to provide services; provision for interconnection—that matter was raised—to enable the linking with suppliers providing public telecommunications transport network or services, in order to allow users of one supplier to communicate with users of another supplier and to access services provided by one supplier where specific commitments are undertaken.

We are seeking to have procedures for interconnection negotiation made public and the procedures applicable for interconnection to a major supplier would be made publicly available. We want transparency in the interconnection arrangement. The Act ensures that a major supplier would make an interconnection agreement for its reference interconnection effort publicly available.

In respect of dispute settlement, by amending the Act we would have the Telecommunications Authority with one of its functions being the requirement to mediate and resolve disputes.

In respect of universal service, the Government shall define the kind of universal service obligation it wishes to maintain. Universal service has to be done in a way that where it is not economically feasible for a provider to do it, the Government would set up a mechanism by which it could be done. We would have to set up that organization and administer it in a transparent, non-discriminatory and comparatively neutral manner.

We are committed under this Act to public availability of licensing criteria and the public availability of many types of information including licensing information that, from Sen. Mark's point, provides for people to know the criteria to be used in respect of licences. It is an independent regulator and separate from and not accountable to any private supplier offering telecommunications service.

Finally, it deals with the allocation of scarce resources to a national spectrum plan and the numbering plan that would be used for this sector. We believe that between the parent Act and this Bill we would have covered all these fundamental points which we would seek to have in such a sector.

**Sen. Prof. Ramchand:** Could I?

**Sen. The Hon. Dr. L. Saith:** Let me conclude and then I would remain on my feet to answer your questions.

In conclusion, I want to stress that we are hoping that the resulting competitive framework would lead to a number of things such as a reduction in the price of telecommunications services. I cannot overemphasize that. The whole policy driving the sector is to bring down prices because Fast Forward which is our ICT plan is predicated on making telecommunications available to everyone. We cannot create a knowledge-based society if we have the barrier of high telecommunication prices for people to access information. We hope that competition would bring a higher quality service. It would also bring a variety of products and services. In order to compete people would have to provide more and more services and varieties. It would result in an improved infrastructure. Finally, it will allow telecommunication services to be provided in areas that are deemed to be uneconomic.

**Sen. Prof. Ramchand:** I was a bit late, so I do not know if the Minister commented on the suggestion that since the Authority has total control over radio broadcasting, that the name of the Authority should be changed to Telecommunications and Broadcasting Authority.

**Sen. The Hon. Dr. L. Saith:** It also has over television. I do not feel at this stage it matters too much. Telecommunication broadly covers the whole thing. I do not think it changes the role of the Authority.

**2.30 p.m.**

**Sen. King:** I wonder if the Minister could refer to the spectrum issue. How is the Minister going to deal with the payment of spectrum for the new providers who would come in, the new Request For Proposals (RFP) that would be going out. Also, how would one deal with spectrum given that TSTT is already in operation?

**Sen. The Hon. Dr. L. Saith:** I have a group working on that. As one would know, there are two options available to us. One is to continue to give it away free. The second is to charge for it, and there are various ways of charging. Charging is an option for just putting a value on it and a combination of partially charging and partially issuing it on the basis of proposals that make sense in terms of its use. We have not come to any conclusion. The principle at the end of day must be that no provider must have an advantage over the other. So obviously, if



one puts a price on spectrum and one were to say to new entrants they have to pay for spectrum, the spectrum already given to TSTT, one would have to find a way of having them compensate us so that they would all operate on the same basis. The jury is out on which way it should go because there are pros and cons, and there is a team working on that. As I said, the principle would be that no provider should be put at a disadvantage because of the way it went before and, therefore, you would have to find a way of making sure that everybody is operating on the same footing with respect to the cost of spectrum allocated.

Madam President, finally, if we are successful in what we are trying to do and getting the results that we hope would come, I believe that it would only redound ultimately to the benefit of consumers and the country on the whole.

Thank you.

**Sen. Seepersad-Bachan:** Madam President, the Member mentioned the amendment with respect to the termination of service.

The Minister mentioned last week the complaints bureau. Is it still the intention that the Authority would take responsibility when there is a termination of service, that they would get involved and have reconnection? As you know, if there is a dominant provider, the problem could still exist.

**Sen. The Hon. Dr. L. Saith:** Madam President, as I have indicated, the amendment seeks first of all for the Authority to set the framework in which termination should take place. And if there were a breach of that then the Authority would have the power to step in. What we were trying to avoid was to make the Authority the first call and, therefore, it would be—but the power remains to set the framework on how it should be handled, and if it is handled and it is solved, then there would be no need to get involved. If not, through the complaints authority and the fact that it specifically says, do not disconnect a user for any portion of the bill that is under dispute, we believe that the number of disputes that would actually come to the Authority would be smaller. So yes, the authority would be involved.

I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committee to a committee of the whole Senate.*

*Senate in committee.*

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

*Clause 4.*

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

**Dr. Saith:** Madam Chairman, I beg to move that clause 4 be amended as circulated:

“Insert after paragraph (d) the following paragraph, and renumber the subsequent paragraphs accordingly;

(e) by adding the following terms and definitions:

“testing of traffic” means the examination of the codes and protocols used in order to verify the type of telecommunications signal being transmitted and received;

“traffic” means the electronic composition of a telecommunications signal;”

I propose to add a subclause (e); (e) would become (f) and (f) will become (g). We are introducing a new clause 4(e) to define “traffic” and “testing traffic”. If that is accepted then what is (e) would now become (f) and (f) would be (g).

I am told that they have to go in alphabetical sequence.

**Madam Chairman:** Any comments?

**Sen. Mark:** Madam Chairman, we need clarification on a number of areas in clause 4. If one were to look at 4, there is need for clarification on a number of areas. “Universal service” would fall under clause 4. Not so?

**Sen. Jeremie:** It would be new 4(f).

**Sen. Mark:** We have a problem with that definition.

**Sen. Jeremie:** What is the problem?

**Sen. Mark:** How it is stated in the original parent Act, and the proposed amendment. If you look at what is in the original Act—

**Sen. Dr. Saith:** It is the same thing. We just put all in one place.

**Sen. Seepersad-Bachan:** What was the reason for having it done in that way? That is because of the change in technology. And if one looks at clause 20, it

gives all the criteria to be used in the definition of “universal service”. By taking out where it refers to “in accordance with the criteria stipulated in section 28”—that has been removed from your definition of “universal service.”

**Sen. Dr. Saith:** Yes, because we have taken it from there and put it over there. Then section 28 talked to the requirement of “universal service” taking in to account the needs of the public. We are saying to put in the definition.

**Sen. Seepersad-Bachan:** What would happen in section 28?

**Sen. Dr. Saith:** Having defined “universal service”, section 28 applies to it.

**Sen. Mark:** There is duplication?

**Sen. Dr. Saith:** We have taken it out of section 28 and put it in the definition so wherever in the Act it talks about “universal service”, the definition would define it and not only in section 28.

**Madam Chairman:** Are we clear on that?

**Sen. Mark:** No. We are not happy with that.

**Sen. Seepersad-Bachan:** I understand what you are saying here. You just took the first part of 28(1) and included it in a definition. I am saying one of the things that were included in the old definition is that the criteria still apply. In this one it is not definite that the criteria—

**Sen. Dr. Saith:** The old definition says “universal service”. It says: provision throughout Trinidad and Tobago in accordance with the criteria established in section 28; “with the criteria established in section 28” is taking into account the needs of the public, affordability and the services and technology. So we have just spelt it out and put it here so that if it appears anywhere else in the Bill it is quite clear what we are talking about rather than saying go back to section 28. It is possible that in looking at a Bill you can correct it. It does not change what is in the Bill.

**Sen. Seetahal:** I think I grasp that the term might appear in the Bill. You want the definition to be consistent. Does the term appear anywhere else in the Bill?

**Sen. Jeremie:** Out of an abundance of caution we have put it in.

**Sen. Seepersad-Bachan:** I am saying when you go back to the definition you would see from the definition that you have to go back to the criteria used in section 28.

**Sen. Jeremie:** The criteria are set out in the new definition and that is the only explanation that we can give.

**Sen. Mark:** We are not finished. The public telephone service, we are not happy.

Madam Chairman, through you, the public telephone service, if you look at the definition in the parent Act, look at the definition in this amendment, you see a vast change.

**Sen. Dr. Saith:** What is the vast change?

**Sen. Mark:** Voice over the Internet (VoIP).

**Sen. Dr. Saith:** VoIP is covered under the old definition as long as you are doing voice.

**Sen. Mark:** What is covered? Do you want us to go through slowly?

**Sen. Dr. Saith:** Through a Voice in real time.

**Sen. Mark:** Let us go over it slowly. Madam Chairman, if you look at the Explanatory Note to the Bill, which is rather clear in terms of what is meant in the actual clause. The actual clause in the Bill is very short, but when you go to the definition in the Explanatory Note you understand exactly where the Government is coming from in terms of this amendment. Sen. Dr. Saith has already indicated that he wants to make an amendment or add a new clause indicating to those call centres, that there would be a six-month transition period in which they would apply to the Telecommunications Authority, this so-called independent authority, which I do not support. I believe it would be politically manipulated. We are saying this particular section is the one that we have great difficulty with. We believe that the current crop of call centre operators, about 92 to 100, employing 700 persons, particularly young persons between 18 and 24 years, there should be an automatic transition for them. We do not believe that those persons should go through the same trauma as newcomers. And what Sen. Dr. Saith is proposing is that the 92 to 100 operators that are there now, they must have an application. Imagine I am in existence already—

**Sen. Dr. Saith:** Madam Chairman, we are not on that amendment at that moment.

**Sen. Mark:** But this impacts on the amendment.

**Sen. Dr. Saith:** It does not.

**Sen. Mark:** Otherwise we would call for the deletion of this if it were we cannot see the link.

**Madam Chairman:** Sen. Dr. Saith, you were saying.

**Sen. Dr. Saith:** If one goes to the definition of public telecommunication service, it says regardless of technology used to provide such services. That is in the definition. All that we are trying to do here is to make the definition such that it is not linked to any particular technology. It does not remove what already exists.

**Sen. Mark:** We want the original. We are not in support of the amendment. That is the point I am making.

**Sen. Jeremie:** We think that there is a divergence of view on that. We think that the amendment is perfectly in order.

**Sen. Mark:** As usual, you are an arrogant person all of a sudden.

**Madam Chairman:** Any other comment on that?

**Sen. Prof. Ramchand:** Anything that will clear it up for me. When I looked at the parent Act in the definition, there is a phrase: “direct transport and switching of voice”. That has been removed and in its place, there is interactive voice communication and the present amendment says all that it is trying to do is to clarify what was implicit in that “direct transport and switching of voice”. I do not know enough about the field to know whether “direct transport and switching of voice” has an implication of any kind of voice communication. So I see that as a change rather than a clarification. And if the Minister is saying yes, it is a change then it is a change. But I do not see it as a clarification.

**Sen. Seehatal:** What does “interactive” mean? This is my reading of it. I thought interactive encompasses the transport and switching of voice and possibly other things. But there is no definition of “interactive” so I am just going by what I assumed. Is there a jargon definition? Is there a special meaning of “interactive”?

**Sen. Dr. Saith:** I am told that VoIP is direct transport and it is using a combination of technology. Although you go over the Internet for a certain sector you still have to get back into the direct switching arrangement to the telephone there or to the telephone here.

Madam Chairman, we have tried to, as I said before, make changes, which would enable us as technologies come on board to cover them. That is what we

are trying to do. There is no ulterior motive as I indicated. If call centres were a problem, I have dealt with call centres.

Madam Chairman, I ask that you put it to the vote.

**Sen. Mark:** Madam Chairman, we are still unhappy. The interactive voice communication is targeted at the call centres and I am saying that Dr. Saith has admitted and he has also admitted—You have not put it that way but I am putting it to him that is the objective here. Even though we are not dealing with the amendment for those persons in terms of a licence, it is linked to this. I am saying to the hon. Minister that unless we clear up this particular section, we would have difficulty when we come to other parts.

**Madam Chairman:** We have had the explanation of the Ministers and we have no other comment, so I will put it to the vote and let us see what happens. Anything else on that amendment?

**Sen. Seepersad-Bachan:** Madam Chairman, I just want to get a clarification. Changing it to the interactive voice communication is widening the band. What you are doing therefore is saying whereas before you would have been taking only telephone-to-telephone, I think it is going to be including others now, and I am not sure that is what you want to do.

**Sen. Dr. Saith:** The reason why we put interactive is to separate that from voice-mail, which is not interactive. That is why we put it in that way. We want to make sure that all we are talking about is a facility.

**Sen. Seepersad-Bachan:** But it would include others as well.

**Sen. Mark:** Madam Chairman, I do not want the Attorney General to be hustling us.

**Madam Chairman:** Nobody is hustling us, Sen. Mark. [*Crosstalk*] Sen. Mark, I am giving you full opportunity.

**Sen. Mark:** I have value added services on that but the Attorney General is whispering and telling the Member to go on.

**Sen. Jeremie:** I am doing my job as legal advisor to the Government.

**Sen. Mark:** I would like the hon. Minister to indicate to us. He said the public data telecommunication service provider, the Government is seeking to regulate the Internet Service Provider (ISP). Okay? It is in the definition here. I am linking the explanation in the Explanatory Note to the actual clause. If one were to go to

the definition in terms of the Explanatory Note, one would see exactly what the Government is seeking. The Government's policy requires the regulation of the ISP as public data telecommunication service providers. It is in the Explanatory Note so the Government now seeks to control and to regulate ISP and I am just asking the hon. Minister, if he can tell us how many ISP are now involved in public data telecommunication service in Trinidad and Tobago because he is trying to capture them here. What percentage? How many ISP are there in the country, and what percentage of them are involved in data telecommunication service? We would like to know. Are all involved?

**Sen. Prof. Ramchand:** I am just trying to learn. It is like a chip gatherer. You have to dig and probe to get a bit. Is the Minister saying at that time when the phrase "direct transport and switching of voice" was used that was sufficient to the technology? But the technology has changed since that time and you need now to put in the phrase "interactive voice communication" to keep up with the technology. Is that it?

**Sen. Dr. Saith:** What we are basically trying to do is to untie them from the technology and tie them to the service that is being provided so that when the technology changes, the service is what we are looking for, not the technology. If you want to go back to beating tom, tom then you do that.

**Madam Chairman:** Sen. Mark asked a question, I do not know if you have the answer.

**Sen. Dr. Saith:** No, I do not have the answer.

*Question put and agreed to.*

*Clause 4, as amended, ordered to stand part of the Bill.*

*Clause 5.*

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

**Sen. Seetahal:** I looked at the Explanatory Note for this change of name. It says because it was difficult to have a suitable acronym. When I looked at this acronym, it is liable to be TATA. That is what is going to happen. If you have this TATA—this is Trinidad and Tobago. So instead of having TTTA now you have TATA and people would be saying telecommunications authority, TATA. The reason given here, is stated TATA—what is the difference with TTA? Before it was TTTA and then it would be the TTATT. So why is that better? If you all do not mind—I am a Trinidadian and personally as a Trinidadian I would not like my national telecommunication to be called TATA.

**Sen. Dr. Saith:** I am easy. If you want to leave it as it is—

**Sen. Seetahal:** I find it is okay. It is better than TATA.

**Sen. Dr. Saith:** That is what it is now.

**Sen. Seetahal:** Then we do not want to change it. Leave it as it is. [*Crosstalk*]. I am merely saying people would call it TATA the way it is like that.

**Sen. Dr. Saith:** They could call it anything.

**Sen. Seetahal:** I just thought I would “wisen” you up to this fact.

*Question put and agreed to.*

*Clause 5 ordered to stand part of the Bill.*

*Clauses 6 and 7 ordered to stand part of the Bill.*

*Clause 8.*

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

**Sen. Dr. Gopeesingh:** Madam Chairman, I just want to ask for some clarification on this. What is the rationale for removing “or any member of the board”? If no personal liability is attached to any member what is the rationale for removing that? A personal liability attached to whom, the board? What is the rationale for removing “or any member”? Who would be liable then? Is it the board, is it the Authority or is it the member?

**Sen. Seetahal:** I understand it to mean, as it is, if no personal liability is attached to any member then under subclause (2), you would not have any money; therefore no damages would come to any member so what is the point of having that, if you follow what I am saying. Subclause (2) says “any sums of money, damages or cost recovered against the authority or any member of the board”. But if no personal liability is attached to any member, you would have no sums. That is why we need to delete it. It suggests that one can get damages from a member. It is ambiguous if we do not delete it.

**Sen. Jeremie:** There is an explanation in the Explanatory Note.

**Sen. Dr. Gopeesingh:** Do you want somebody to be liable?

**Sen. Dr. Saith:** We have said that they are not liable.

**Sen. Dr. Gopeesingh:** Are you removing no “personal liability” altogether or removing the first part 17(1)?



**Sen. Dr. Saith:** No, (1) says that there is no personal liability but you may be likely to have a member having to pay and it does not make sense. It seeks to suggest that yes; there may be personal liability.

**Sen. Dr. Gopeesingh:** Then, on one hand, you have a personal liability in the first part and then no personal liability in the other part.

**Sen. Seetahal:** The first part says no personal liability for any act of the board and once you are acting in good faith, so that means no liability. Then the second part deals with where damages are recovered against the Authority such and such, which clearly makes it clear that damages cannot be recovered against a member, which we would have when it is deleted. So it would be confirming (1) if I am making sense.

**Sen. Dr. Gopeesingh:** Personal liability means a member's liability so why have no personal liability?

**Sen. King:** If you are acting in good faith.

**Sen. Dr. Saith:** It says Authority or any member. We are saying since subclause (1) says a member of the board would not have—there is no need to. By having it there seems to suggest—

**Sen. Prof. Ramchand:** We should delete in subclause (2) any member of the board.

**Sen. Dr. Saith:** That is the amendment.

**Sen. Seetahal:** That is why Sen. Dr. Gopeesingh is asking why. And we are saying if we leave it as it is now, it would be ambiguous and it would suggest that a member would be personally liable when he acts in good faith or when the board does something and we do not want that to happen.

**Sen. Dr. Gopeesingh:** Thank you for that explanation.

*Question put and agreed to.*

*Clause 8 ordered to stand part of the Bill.*

*Clause 9.*

*Question proposed, That clause 9 stand part of the Bill.*

**Sen. Dr. Saith:** Madam Chairman, I beg to move an amendment to clause 9 as follows:

“Delete paragraph (a) and renumber the subsequent paragraphs accordingly.’

In respect of (a) we were making it clear that it is to advise the Minister because we saw some conflicts between (d) and (f). We are now saying we have withdrawn that amendment and leave the clause as it were in the original, in respect of (a) but (b) and (c) remain.

**Sen. Seepersad-Bachan:** Are you leaving the original (b) and (f) as well?

**Sen. Dr. Saith:** We are amending 3(a) where we are taking away the reliability of service and putting the quality and reliability of service and we are inserting the word “transparent” in 5.

**Sen. Seepersad-Bachan:** The Minister would grant the licence eventually?

**Sen. Dr. Saith:** This deals with the standards.

**Sen. Seepersad-Bachan:** (a) is making recommendations to the Minister on the granting of concession. Is it section 8 you are dealing with?

**Sen. Dr. Saith:** Section 18 of the parent Act.

**Sen. Seetahal:** Not delete (a) of the parent Act. Delete (a) of the Bill.

**Sen. Seepersad-Bachan:** I am sorry.

**Sen. Dr. Saith:** The amendment would now comprise (a), (b) would be renumbered (a) and (c) would be renumbered (b).

**Sen. Prof. Ramchand:** What are we going to advise the Minister on?

**Sen. Dr. Saith:** We are keeping what is in the parent Act.

**Sen. Mark:** I want to find out about transparent. Is that an imposition by the WTO or the ITU? I know otherwise, you would not have put that.

**Sen. Dr. Saith:** Madam Chairman, I would not even bother to answer that.

**Sen. Mark:** I am just asking for clarification.

**Sen. Dr. Saith:** It makes the definition much more transparent.

**Sen. King:** Madam Chairman, I had an amendment, which I want to consider in 18(d).

**Madam Chairman:** Is it to clause 9?

**Sen. King:** Yes. I had an addition to what is there, besides establishing national telecoms industry standards and technical standards and inform both the Ministry and the public at large making them responsible for public education. *[Interruption]* I had proposed the industry at large.

**Sen. Dr. Saith:** I am told in 18(4) that it does say that the authority shall adopt procedures, which would afford interested parties and the public opportunities for consultation.

**Sen. King:** So that is already covered. Thank you.

*Question put and agreed to.*

*Clause 9, as amended, ordered to stand part of the Bill.*

*Clause 10 ordered to stand part of the Bill.*

*Clause 11.*

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

**Sen. Dr. Saith:** Madam Chairman, I beg to move an amendment to clause 11 as follows:

Delete paragraph (a) and substitute as follows:

“(a) in subsection (1)(c) by deleting the words ‘in respect of which the concessionaire is dominant,’”

(b) by deleting subsection (1)(i) and substituting as follows:

“(i) refrain from impairing or terminating the telecommunications service to a user or other provider of a telecommunication service during a dispute, without first having undertaken to resolve the dispute in accordance with established procedures approved by the Authority and where such dispute cannot be resolved, to seek written approval from the Authority; but in respect of a billing dispute the concessionaire shall collect such amounts that are not in dispute from such user or other provider; and”

Renumber paragraph (b) as paragraph (c).

Madam Chairman, it seeks to set up quite clearly that the Authority would have the power to intervene in case of a dispute between a user and a provider. It sets out the mechanism for doing that.

**Madam Chairman:** Any comment?

**Sen. Seetahal:** Deleting subsection 1(i), but that would be clause 1(a)(1) you mean?

**Sen. Dr. Saith:** (1)(i).

**Sen. Seetahal:** But there is no (1)(i). There is (1)(a)(i). Your suggestion is (1)(i) and what you really mean is (b). At 11 you have (a) and (b) and you have by deleting subsection (i). I think you mean (1)(a)(i).

**Sen. Dr. Saith:** There is no (a); a, b, c, d, e, f.

**Sen. Mark:** Madam Chairman, initially, if I am reading this correctly the Minister proposed the establishment of some consumer bureau. Is this the section dealing with that?

**Sen. Dr. Saith:** No. The bureau was already in. We were suggesting that the Authority only get involved where a provider has a problem. We are now changing that, and saying in the case of a user it would get involved, and it sets out where it would get involved. The complaint is there in the original Act and it remains.

**Sen. Mark:** But the user could have gone directly to the Authority in the original Act or does he have to go through the bureau?

**Sen. Dr. Saith:** Under 19(q), there is established a consumer complaints committee to collect, decide on and report on consumer complaints, such report would be included in the Authority. So that is already set up. That is not changed.

**Sen. Seepersad-Bachan:** Madam Chairman, can a provider terminate a user?

**Sen. Dr. Saith:** Any provider. The Act must be such now that assuming that there would not be a dominant provider in future and any provider cannot terminate a user unless they go through a procedure and they cannot terminate on the basis of a disputed amount. If there is no disputed amount and you did not pay your bill, they can terminate you without coming to the Authority. If you owe them \$50 and there is no dispute and you have not paid them, they can terminate. But once there is a dispute and if the dispute is over \$5.00 you pay the \$45 and the \$5 is there. You cannot terminate unless that is dealt with by the Authority through its Telecommunication Act.

**Sen. Seepersad-Bachan:** Let me just say what my concern was last week. Originally it appeared that when you want to terminate the user it would have gone through the same mediation procedure but you could not terminate unless you got the Authority's approval to do so. You would have concern about the number of complaints coming in but the problem is you have to cater in case you have a monopoly still or a dominant provider.

**Sen. Dr. Saith:** That is why we changed that and we are now saying that the Authority would publish the procedures to use for termination. Among those procedures would be you cannot terminate for those on the basis of non-payment of any sector of the bill which is under dispute and if there is a termination that takes place that is inconsistent, it goes back to the Authority's Complaints Bureau.

**Sen. Seepersad-Bachan:** That is what I am trying to establish. It may not be a billing dispute but a monopoly is something—you might have an argument or something and they decide to terminate your services. That is what I am trying to ensure we keep in the Bill.

**Sen. Dr. Saith:** That is what we are saying would not happen because the Authority would—I am operating on the basis that we would remove the dominant monopoly over some period of time that is not too long.

**Sen. Seepersad-Bachan:** Dr Saith, what happens is that the consumers right now, they are fed up with the kinds of termination that goes on.

**Sen. Dr. Saith:** But you want to make sure that you do not word it in a way that a new provider could take advantage of that loophole and go ahead and terminate the service. So we are making it for everybody.

**Sen. Dr. Gopeesingh:** On the question of billing that is always a contentious issue so therefore can the concessionaire not use that and say that somebody who the service has been provided to has not settled their account and use that as a loophole to terminate?

**Sen. Dr. Saith:** It is not a loophole. If they have provided a service to another provider because, with this new arrangement other providers would come in and require some people to provide services as a provider. If you do not pay your bill as a provider there is no dispute, then whoever it is has the right to terminate your service. Because you run up millions of dollars and not pay it. The ordinary user, which is the one you are dealing with, we are saying you cannot terminate on the basis of non-payment for portions of the bill under dispute. If it is not under dispute then you can seek to—

**Sen. Dr. Gopeesingh:** Where is that dispute referred? That says the telecommunications authority says—that you owe—the provider says that you owe.

**Sen. Dr. Saith:** The Attorney General is asking to defer this while he ensures that what we are trying to do is, in fact, being done.

**Sen. Dr. Gopeesingh:** The part that I had questioned it is answered in the list of amendments. I got the gist of it.

**Madam Chairman:** We would come back to clause 11.

*Clause 11 deferred.*

*Clause 12 ordered to stand part of the Bill.*

*Clause 13.*

*Question proposed, That clause 13 stand part of the Bill.*

**Sen. Mark:** We believe that while Dr. Saith is an idealist, and I appreciate it, and we all are rather, I think, for instance, that we move towards levelling the playing field. There is a strong possibility that a government monopolist can take advantage of providers and, therefore, whereas in the original Act they have to go together in order to have a dispute heard or determined, now, the amendment is saying that the big brother can take the small individual. Dr. Saith may argue that the small brother could also take the big brother as the case may be.

**Sen. Dr. Saith:** Which is more likely to be the case.

**Sen. Mark:** I am arguing that normally there is a certain kind of arrangement where I feel for peace, stability and harmony in the industry it is better you have a collective approach than to have this individual approach where the dominant monopoly could go forward and crush the smaller provider. I was wondering—

**Sen. Dr. Saith:** At the moment it says if there is a dispute unless both parties agree, that the dispute would not be solved by the Authority. There is no mechanism for moving it beyond that. And that could go on for years, and if the dominant provider who has the deep pocket, it is in his interest not to have this dispute at all, it would go on for years until his competitor goes out of business. This says if you cannot solve it, then anybody can take it. Believe you me, this would help the small persons more than it would help the dominant provider because the dominant provider could use his clout to keep disputes away from the Authority and, therefore drive a competitor out of business. A competitor is only going to be in the initial stages a small segment of his market. It is clear if you say in your Act that unless you both agree then it would never move beyond there where it is in the interest of either party to keep the dispute going.

**Sen. Seetahal:** Why would you have to wait for both parties to refer it?

**Sen. Dr. Gopeesingh:** I think you could allude to the new WTO Rounds following the Uruguay Rounds which indicate that if two countries disagree—

**Sen. Dr. Saith:** If the Senator were still wearing his trade union hat, it is like saying that unless the employer and the union agree to go to the Minister of Labour, it is not going to go, and it would never go.

**Sen. Mark:** All the rationales in terms of international relations there, especially trading organizations, you need consensus in order to arrive at certain decisions as well. If you do not have consensus you cannot move forward and I think that is what is governing organizations like the FTAA today.

**Sen. Seetahal:** What we have now is forced consensus. What we hope to provide is that either party can go and get it done and there are provisions for equitable-base and non-judiciary negotiation.

*Question put and agreed to.*

*Clause 13 ordered to stand part of the Bill.*

*Clause 14.*

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

**Sen. Dr. Saith:** I beg to move that clause 14 be amended as follows:

“Delete and substitute as follows:

“Section 28 of the Act is amended-

- (a) in subsection (1) by deleting all the words occurring after the word ‘apply’; and
- (b) in subsection (3), by inserting immediately after the word ‘public telecommunication service’”

We are now seeking to add value added service as part of the universal service upkeep—

**Sen. Seetahal:** Having regard to what we said earlier on about the definition of universal service, what I gathered Sen. Seepersad-Bachan was saying, is in the original 28(1) the last two lines really would be redundant. I do not know if she wanted to make an amendment to remove that.

**Sen. Dr. Saith:** We are removing it in this amendment:

**Sen. Seetahal:** But you do not have it here?

**Sen. Dr. Saith:** Yes.

14(a) delete the words after “apply”.

**Sen. King:** Madam Chairman, are we looking at section 28 of the parent Act?

**Sen. Dr. Saith:** Yes.

**Sen. King:** I had proposed a section 28(3). I wondered why we were asking the authority to be responsible for advising the Minister on funding of universal service, because they cannot really apply taxes. I had suggested that an amendment be made there to read: “in accordance with the policy including its funding established by the Minister” and then the rest would follow.

**Sen. Dr. Saith:** The way it is worded does not suggest or imply that the Authority would tax. The Authority’s job is to advise the Minister of the way it should be done. If it is a tax it would have to go to the relevant authority that has the power to tax. The Authority cannot tax. But the Authority has the power here to advise the Minister, if you have to fund universal service what are the options available to you and what ways you should use to fund it.

I am told that the concession that you would be issuing which has to be approved by the Cabinet would, in fact, spell out the way it would be done through the licence rather than the Authority [*Interruption*]

The licence would say in respect of universal service obligations, this is the way you would fund your—

**Sen. King:** So you are saying it would come under regulations?

**Sen. Dr. Saith:** Yes. The regulations that govern the way the concession is issued.

**Sen. King:** On a related question. Are the providers going to be paying this universal service tax out of their profits? How is that going to be done as far as the providers are concerned?

**Sen. Dr. Saith:** Some jurisdictions make it a percentage of the revenue. If you pay .1 per cent of your revenue it has nothing to do with profits, it has to do with your revenue. The Authority would have to work out what is the best way. For instance, the revenue of the Authority to run itself in respect of fees and licence which is part of the cost of your operations.

**Sen. King:** Have we protected the public that the providers would not pass it on to the consumer? I am not seeing this very clearly.

**Sen. Dr. Saith:** That is in the regulations. Once the Authority decides how they are going to collect this money and how they are going to disburse it that



would form part of the regulations. You cannot in the Act begin to prejudge how it is going to be done. If you do that and you want to change the way it is done, I do not think the Authority would want to put in a system where it is automatically passed on to the consumer. It would, of course, be part of the operating cost when providing a service.

**Sen. Seepersad-Bachan:** Is it going to be universal fund itself, contributions and drawdowns from that fund. Is it going to be regulated?

**Sen. Dr. Saith:** That would be part of the regulations of the Authority; how you set it up; how you fund it.

**Sen. Mark:** Madam Chairman, this is the problem we are experiencing. I do not know where the regulations are. I do not know when the regulations would come here. I do not know if Sen. Dr. Saith could tell us when those regulations are going to come. Here it is we are assuming in good faith what Sen. Dr. Saith is saying, would be contained in those regulations or not.

**Sen. Dr. Saith:** Until the regulations are published they cannot do anything. So it is not in good faith. The regulations that we have prepared would be laid and until they are laid and approved by this Parliament, the Authority cannot implement them. *[Interruption]* No, the legislation could be complete. There are other things that have to take place.

**Sen. Seetahal:** But you would not be implementing that part in your Bill.

**Sen. Dr. Saith:** There are a series of regulations.

**Sen. Mark:** Madam Chairman, is the Minister in a position to tell us when those regulations would be tabled in the Parliament? Would the Minister be able to tell us how soon the regulations would be tabled in the Parliament? That is a very important piece of legislation.

**Sen. Dr. Saith:** I agree. As soon as it is complete because, like you, I am anxious that it becomes fully operational.

**Sen. Mark:** So there is no time frame?

**Sen. Dr. Saith:** Not at the moment.

**Sen. Seepersad-Bachan:** *[Inaudible]* negative under 78(1). That is what I am seeing here: The minister on recommendation of the Authority shall make such regulations subject to negative resolution.

*Question put and agreed to.*

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

**3.30 p.m.**

*Clause 15.*

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

**Sen. Dr. Saith:** Mr. Chairman, I beg to move that clause 15 be amended as follows:

(a) Delete paragraph (b) and substitute as follows:

“(b) in subsection (5) by inserting after the word ‘investment’ the words ‘or shall prescribe the use of any other measures for determining the concessionaires’ profitability, as it deems appropriate;”

(b) in paragraph (c) insert the word “and” immediately before the word “floors”.

**Madam Chairman:** Any comments? The question is—

**Sen. King:** Stop rushing it, please.

**Sen. Seepersad-Bachan:** I would like to ask a question.

**Madam Chairman:** I am not rushing it, Sen. King. I am waiting and nobody is saying anything.

**Sen. Dr. Saith:** Perhaps I can explain, Madam Chairman. At the moment it says that the rate of return on investment is the sole method. We are saying to widen it. The Authority can prescribe any other measure it wishes to determine whether the concessionaires’ profitability—

**Sen. King:** [*Inaudible*]

**Sen. Dr. Saith:** It may be in the short term. I am giving the Authority wider scope by saying either that or any other arrangement you may see fit.

**Sen. Seepersad-Bachan:** If you leave it at rate of return that would be the guiding—

**Sen. Dr. Saith:** But, as you know, we have the shareholders’ agreement.

**Sen. Seepersad-Bachan:** You have just told us you are not in conflict with the shareholders.

**Sen. Dr. Saith:** I am saying we have a shareholders' agreement and you know why it was put in. I am sure it was put in on your advice.

**Sen. Seepersad-Bachan:** Are you saying that it is in the shareholders' agreement, Sen. Dr. Saith? Is the rate of return required because of the shareholders' agreement? I thought there was another way around that.

**Sen. Dr. Saith:** The other way around is that we are giving the Authority ways around it. That is all we are doing. Instead of saying you go by the rate of return, we say, go by the rate of return or any other arrangement that you can find that will satisfy the person. So I do not think we lose anything by doing it.

**Sen. Seepersad-Bachan:** But if you are using that statement, you can use any measure, I do not think it will impact on the shareholders. The modern legislation as Sen. King is saying, we want it to be progressive legislation and when you use terms like that, you start heading in a backward direction.

**Sen. Dr. Saith:** Next time I will bring that—

**Sen. Seepersad-Bachan:** I think you should change it, Sen. Dr. Saith. I really think you should.

**Sen. Dr. Saith:** I do not think it is going to help.

**Sen. Seepersad-Bachan:** Unless there is some technical difficulty—

**Sen. Dr. Saith:** Just in case there is.

**Sen. King:** If you look at the RIC Act of 1998, that had already deleted sections 30 and 31 and section 16 discussed the rate of return. That was deleted. That was taken out of the Act and they replaced section 47 of that new RIC Act. It said that the RIC was to recommend—

**Sen. Dr. Saith:** I take your point, but it was taken out of the Act, but not out of the shareholders' agreement. We do not want to go to court on that point. Leave it in. It does not mean that we will use it, but we do not want to go to court for them to say we had an agreement with them and we put in an Act that contradicts that agreement.

**Sen. Seepersad-Bachan:** The message that is sent in terms of potential investors is that one should continue with the rate of return. It is always seen as protecting the incumbent.

**Sen. Dr. Saith:** But it is not protecting the incumbent.

**Sen. Seepersad-Bachan:** Rate of return always tends to favour an incumbent in any country.

**Sen. Dr. Saith:** A new concession will be given to TSTT, at which time the new concession, as will be for all people coming in, will spell out the thing. This merely gives the Authority the ability to move as appropriate. It does not change what is there. There had to be a reason why they put it in. I know the reason and it cannot be that the reason has changed now.

**Sen. Seepersad-Bachan:** There are ways around that.

**Sen. King:** It is not consistent—

**Sen. Dr. Saith:** I understand all of that, but I have sound legal advice and I do not want to do anything that will stymie the full implementation of this Act by somebody saying that we are doing something that is contrary to our agreement. We will negotiate that as we get on it. It does not help them at the moment.

*Question put and agreed to.*

*Clause 15, as amended, ordered to stand part of the Bill.*

*Clause 16.*

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

**Sen. Dr. Gopeesingh:** Sen. Dr. Saith, did you have a problem with the time period within which the concession had to be regranted? Is that why you are deleting it?

**Sen. Dr. Saith:** If we go by the Act, this Act should have been proclaimed in 2001 and with the new concession would have given—2001 to 2010—nine years with a further nine years. I say four years with a further four years.

*Question put and agreed to.*

*Clause 16 ordered to stand part of the Bill.*

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

*Clause 19.*

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

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 19 be amended as follows:

Delete and substitute as follows:

“Section 36 of the Act is amended:

- (a) in subsection (1)—
  - (i) by inserting before the words “No person shall” the words “subject to subsection (2)”; and
  - (ii) delete the word “Minister” and substitute the word “Authority”;
- (b) by deleting subsection (2) and substituting as follows:
 

“(2) Where spectrum is required in respect of a concession that has been applied for under Part III, the licence application shall be processed as part of the concession application pursuant to section 21.”;
- (c) by deleting subsection (3) and substituting as follows:
 

“(3) The Authority shall notify the applicant of its determination within ninety days of receipt of the application.”;
- (d) by deleting subsections (4) and (5);
- (e) in subsection (6):
  - (i) by deleting the words “on the granting of a licence by the Minister”; and
  - (ii) by deleting the words “to that effect” and substituting the words “of licences issued”.
- (f) in subsection (7) by deleting all the words occurring after the word “scrutiny” and substituting the words “in the manner prescribed by the Authority”.

**Sen. Seetahal:** The amendment that says section 36 is amended in (a) by inserting before the words “No person shall” the words “subject to subsection (2)” —those words should be in inverted commas.

**Sen. Dr. Saith:** We are taking out “the Minister” and putting in “the Authority” in (a)(ii) of the amendment.

**Sen. Mark:** Madam Chairman, “the terms of a licence shall be available for public scrutiny in a manner prescribed by the Authority”.

**Madam Chairman:** Where are you looking?

**Sen. Mark:** I am looking at the amendment to clause 19—“in the manner prescribed by the Authority”. Are we going to have open hearings on these matters?

**Sen. Dr. Saith:** Yes. I imagine there would be.

**Sen. Mark:** When you say “prescribe”, are you talking about coming into the regulations.

**Sen. Dr. Saith:** Yes.

**Sen. Mark:** They will let us know exactly how?

**Sen. Dr. Saith:** Yes.

**Sen. Mark:** This thing is so “iffy”.

**Sen. Seetahal:** In (d), I see you are talking about deleting subsections (4) and (5). Are you going to renumber (6) and (7) or are you leaving it like that? You do not have it there.

**Sen. Dr. Saith:** It should be, “and renumber accordingly”.

**Sen. Seepersad-Bachan:** Just a quick one: in 36 going into 37, that section, the last time I mentioned criteria. Will you do this in the regulations—bring the criteria for selection and evaluation?

**Sen. Dr. Saith:** Yes.

*Question put and agreed to.*

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

*Clause 20.*

*Question proposed, That clause 20 stand part of the Bill.*

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 20 be renumbered as clause 21 and amended as follows:

Delete and substitute as follows—

Section 39 of the Act is amended—

- (a) in subsection (1) by deleting all the words from “Subject” to “where” and substituting as follows:

“Subject to this section, the Authority or the Minister, on the recommendation of the Authority, in respect of frequencies assigned for the operation of services to which Part III refers, may suspend or terminate a licence where—”;

- (b) in subsections (2) and (4) by adding after the word “Minister” the words “or Authority as the case may be”;

- (c) in subsection (5) by—

- (i) deleting the words “during the period that the Minister is considering exercising his power to suspend or terminate the licence,”;
- (ii) inserting after the word “Minister” in both places that it occurs, the words “or Authority as the case may be,”;
- (d) in subsection (6) by deleting all the words from “Before” to “licensee” and substituting the words “Before a licence is amended the licensee shall be served with”;
- (e) in subsection (7) by inserting after the word “Minister” the words “or the Authority”;
- (f) in subsection (8) by deleting from the word “Upon” to the word “Authority” and substituting the following:

“(8) Upon application by a licensee for the renewal of the first licence issued to him under this Act, the Authority or the Minister, on the recommendation of the Authority, in respect of frequencies assigned for the operation of services to which Part III refers, shall renew that licence for a period equivalent to the period for which the first licence was granted unless—”;

- (g) by deleting subsection (9) and substituting as follows:

“(9) The period of renewal shall be as agreed between the licensee and the Minister acting upon the recommendation of the Authority or the licensee and the Authority, as the case may be.”

*Question put and agreed to.*

*Clause 20, renumbered clause 21, as amended, ordered to stand part of the Bill.*

*Clause 21.*

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

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 21 be renumbered as clause 22 and amended as follows:

Paragraph (a) is deleted and the subsequent paragraphs renumbered accordingly.

*Question put and agreed to.*

*Clause 21, renumbered clause 22, as amended, ordered to stand part of the Bill.*

*Clause 22.*

*Question proposed, That clause 22 stand part of the Bill.*

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 22 be renumbered clause 23.

*Question put and agreed to.*

*Clause 22, renumbered clause 23, ordered to stand part of the Bill.*

*Clause 23.*

*Question proposed, That clause 23 stand part of the Bill.*

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 23 be renumbered as clause 24.

**Sen. Seetahal:** Do you need a comma after the word “equipment”? I did not seek any comma there. We are not bothering with punctuation again? You mean to insert a comma after “equipment” and then say “traffic”, right?

**Sen. Dr. Saith:** Yes.

**Sen. Seetahal:** Sometimes you all say insert a comma, but I have not seen it, so I am just asking.

**Sen. Dr. Saith:** I am told that they learnt that you must put proper punctuation.

**Madam Chairman:** Senator, I am seeing a comma there.

**Sen. Seetahal:** 58 does not have any comma after “equipment”. The point is that you do not need to amend for commas. That is all I wanted to know.

**Sen. Seepersad-Bachan:** Sen. Dr. Saith, is there any reason for not using “network flow”? Why “traffic”? Would not “network flow” be all encompassing? I meant to raise the point earlier.

**Sen. Dr. Saith:** They tell me “traffic” covers it, and once the definition is clear—

**Sen. Seepersad-Bachan:** The terminology now is “network flow”, which will encompass everything.



**Sen. Dr. Saith:** My people, whom you know very well, tell me that “traffic” covers it just as well.

**Sen. Seepersad-Bachan:** It is very telecoms biased instead of data biased.

*Question put and agreed to.*

*Clause 23, renumbered clause 24, ordered to stand part of the Bill.*

*Clause 24.*

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

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 24 be renumbered as clause 25.

*Question put and agreed to.*

*Clause 24, renumbered clause 25, ordered to stand part of the Bill*

*Clause 25.*

*Question proposed, That clause 25 stand part of the Bill.*

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 25 be renumbered as clause 26.

**Sen. Mark:** Is there an amendment to that? Is that the section that deals with the Minister of National Security and the board?

**Madam Chairman:** Yes.

**Sen. Mark:** I suggested to the Minister that this process would have been cumbersome, bureaucratic and unwieldy, but apparently he is quite happy with it.

**Sen. Dr. Saith:** It is notification and once it is done simultaneously, then the Ministers get it; but you do not need the approval of the board. It is information, and hopefully they will move to email and they will email everybody at the same time. It is not approval. If it were approval, then it would hold back whatever they had to do. It is merely informing the members of the board of what is taking place.

*Question put and agreed to.*

*Clause 25, renumbered clause 26, ordered to stand part of the Bill.*

*Clause 26.*

*Question proposed, That clause 26 stand part of the Bill.*

**Sen. Dr. Saith:** Madam Chairman, I beg to move that clause 26 be renumbered as clause 27.

**Sen. Dr. Gopeesingh:** Section 78, is this by negative or affirmative resolution? You have “negative” here, but we would like to see affirmative action brought here.

**Sen. Dr. Saith:** I am sure you would like it now.

**Sen. Dr. Gopeesingh:** Why not?

**Sen. Dr. Saith:** When you pass it, you put “negative” and I am quite willing to go along.

**Sen. Dr. Gopeesingh:** It is subject to change. People change their minds. Reasoning and rationale come in.

**Sen. King:** Mr. Minister, did you just agree to that proposal?

**Sen. Dr. Saith:** I did not agree, but I am willing to accept what was done before.

**Sen. Dr. Gopeesingh:** Sen. Dr. Saith, all these things impinge upon regulations. If the regulations are not going to be discussed in Parliament, it means that anything can come on the floor—

**Sen. Dr. Saith:** You can always move a motion.

**Sen. Mark:** No, no. This is too important.

**Sen. Dr. Saith:** And you know that.

**Sen. Mark:** We are wiser now. [*Laughter*] We want to advise that in light of the importance of this matter—as you get older, you get more wisdom—we are asking the hon. Senator to reconsider this question. Everything we have said this afternoon, the hon. Minister has responded by telling us that it will come in the regulations. We are saying that these regulations will be so critical that we need to have an affirmative resolution. I appeal to Sen. Dr. Saith—

**Sen. Dr. Saith:** Madam Chairman, I understood very well why the Senators on that side put it the way they did. I do not think it was for any ulterior motive, but there will be many regulations and they will hamstring the work of the Authority if every regulation has to come for affirmative resolution. Regulations will be laid and if there is one on which people feel strongly, there is a procedure by which it can be dealt with. To have every single regulation come here and be

subject to positive resolution, will slow down the process. I think that is why they did it. I do not think they did it for any other reason.

**Sen. Prof. Deosaran:** I have been going along with the Minister's position in appreciating the complexity of the legislation, but on this point of the regulations, I have been hearing that the last government organized it the way it is. Perhaps that is why they were removed from office. [*Interruption*] I am stating my point because Sen. Mark rightly said that they are wiser. I am trying to set the premise for that wisdom.

More than that and more to the point, this Senate does not comprise only of Government and Opposition Senators, and if I venture a view from the Bench on which I sit—at least for those of that view—on reflection, I think that the regulations become critical in living up to the new development that will affect this parent Act. More than that, whilst I agree with the Minister in terms of the volume of the regulations, certainly there should be a responsibility on the Authority and the Government to organize the presentation of those regulations in such a packaged manner that it would be at the convenience of the Parliament.

I do not want to elaborate further, but whilst I agree with the Minister's reluctance to some extent, for administrative purposes, I think that the importance of this particular issue will continue to be highlighted and the role of Parliament must be central in that development without unnecessarily restricting the Government's policy role.

**Sen. Dr. Saith:** Senator, I maintain that it will come. I am prepared, before the regulations are laid, to circulate them and be willing at some point to consider them. I feel that laying them and having a full debate each time will hold them back.

When they are laid, I want everyone to be happy. I am prepared to consult even before in making sure that the—at the end of day, we want to have good regulations. As I said, I am not attributing ulterior motives to them when they did it. I am saying I understand why it was done. It is not a question of being wiser. There were good reasons for doing it and I understand those reasons. It has nothing to do with being unwise at the time.

**Sen. Dr. Goopeesingh:** Sen. Dr. Saith, the Telecommunications Act has 78 sections and people have had to study them to come up with discussions on it in Parliament. Amendments are going through relatively quickly. I doubt that the regulations would be as voluminous as this. In the essence of time, I do not see a difficulty—

**Sen. Dr. Saith:** It is not voluminous.

**Sen. Dr. Goopeesingh:** Then it makes it even more incumbent upon Parliament to look at the regulations because there may be too many nebulous statements. I support Sen. Prof. Deosaran in the fact that Parliament is supposed to dictate what is going on in the issues. We would like to see some degree of affirmative action there, rather than negative resolution.

**Sen. Dr. Saith:** I understand, but I still believe that administrative reasons demand we do it this way. I am prepared to take Sen. Prof. Deosaran's point into consideration by saying we will not lay it and go. I am prepared to have discussions. At the end of the day, we want to get the Authority functioning and we want to get the sector liberalized to bring down costs to everybody. That is the objective. The objective is not to play games.

**Sen. Dr. Goopeesingh:** The essence of the amendments are very noteworthy and proper in what is going on, but you are alluding to the statement that you are bringing it back to Parliament, so why not just say that you are going for affirmative resolution?

**Sen. Dr. Saith:** If we were not concerned, we could have gone ahead with the Act as it is and the point would have been raised. I am saying, in looking at what we are doing, I am also conscious of the fact that we want to make sure it is done without undue delay. The point raised by Sen. Prof. Deosaran is valid and we can deal with that by making it available in advance and if there are corrections or suggestions, we will take them on board. May I also indicate that the Act provides for public consultation on these regulations, so there is a process.

**Sen. Dr. Goopeesingh:** Consultation is different from parliamentary rules.

**Sen. Dr. Saith:** Senator, I am not going to be able to convince you that what you did was right.

**Sen. Prof. Deosaran:** One last point, Madam Chairman, if regulations are brought to Parliament, will they be passed by a simple majority?

**Sen. Dr. Saith:** They are just laid, but if any Senator feels that they should be debated, he can move a motion.

**Sen. Prof. Deosaran:** This strengthens my point. It is less burdensome on the Government.

**Sen. Dr. Saith:** To debate it each time? Suppose the regulations are—

**Sen. Prof. Deosaran:** We would have grown wiser, I believe. If you are against it, I appreciate that; but I want you to understand that you will not always be here. Your integrity might not always be here.

**Sen. Dr. Saith:** I think the public consultation part gives you first exposure—

*Question put and agreed to.*

*Clause 26, renumbered clause 27, ordered to stand part of the Bill*

*New Clause 20.*

**Sen. Dr. Saith:** Madam Chairman, I propose a new clause 20, which reads as follows:

In section 37(3)(e) delete the word “Minister” and substitute the word “Authority”.

*New clause 20 read the first time.*

*Question proposed, That the new clause be read a second time.*

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 20 added to the Bill.*

*New Clause 28.*

**Sen. Dr. Saith:** Madam Chairman, I propose a new clause 28, which reads as follows:

By adding immediately after clause 27 as renumbered the following new clause:

“28. Section 85 of the Act is amended by adding after subsection (4) the following:

(4A) Persons other than those to whom subsection (4) relates and who commenced operation of a public telecommunications service prior to the coming into force of this Act may remain in operation thereafter pending an application to the Authority for a concession pursuant to section 21.

(4B) An application shall be made within six months of the coming into effect of the Act and shall be considered in accordance with section 21.”

*New clause 28 read the first time.*

*Question proposed, That the new clause be read a second time.*

**Sen. Mark:** Madam Chairman, we have a problem. I would like to suggest that all those persons who are in operation today should have an automatic licence granted to them and all those who are coming in when the Telecommunications Authority is established, they should then apply. I think it is rather unfair for those persons who are small businessmen and businesswomen—and Sen. Dr. Lenny Saith is an advocate of small business—that he should impose this burden of applying to the Telecommunications Authority within a six-month period upon the coming into force of this Act. They will continue to function, but they have to apply.

I believe that those people should get an automatic licence. Why do they have to apply and they already exist?

**Sen. Dr. Saith:** Let us deal with the Act. The Act will now empower the Authority to issue a licence. In fairness and in transparency it has to make that licence available for comment. Having done that, in order to regularize it, as long as the people comply with the conditions of the licence, then they will be issued. You are suggesting that if for some reason one operator or the other is not going to comply with the way the industry should be regulated, they should also be given a licence. I do not think that is right. We are not stopping anybody from getting a licence. We are saying let the Authority go through and the same procedure they are using for A will be used for B and C. If tomorrow, for some reason, the Government decides to make PH legal, there must be a process by which those licences will be issued.

**Sen. Mark:** We still have a dominant monopoly. There is going to be an incestuous relationship in spite of Dr. Saith's best intentions. We have the State having a Telecommunications Authority through this Act. The State has something called TSTT—a monopoly. There is going to be another four years before they go on the market and then they have another four years if they want an extension. TSTT is not coming on the market in any short period. They have eight years within which to come on the market.

**Sen. Dr. Saith:** That is not correct.

**Sen. Mark:** That is what you just said.

**Sen. Dr. Saith:** You obviously have not read your own Act.

**Sen. Mark:** Let me clarify this.

**Sen. Dr. Saith:** A new licence will be issued for voice. They have a year in which to apply. At the end of one year, a new licence will be issued, which will be the same licence everybody is operating under.

**Sen. Mark:** Thank you for the clarification. The Telecommunications Authority and TSTT are both state controlled and influenced. I am a bit concerned that these call centre operators, given the nature of our space, in spite of all that Sen. Dr. Saith has said about the independence of this so-called Authority, I have no faith in that. My position is that those persons should be given an easy transition to avoid any kind of perception that you can have discrimination and favouritism and therefore a lot of people who will go under. Even though Sen. Dr. Saith is saying that the policy is not to close down, he has no guarantee that will not take place. Therefore, I have a problem with how this is couched.

**Sen. Seetahal:** Is Sen. Mark saying that requiring those call centres that are not licensed to be licensed is oppressive? Is it that they should never be licensed?

**Sen. Mark:** I am saying that they ought to be licensed, but seeing that they have been operating for 10 and 12 years—

**Sen. Seetahal:** No. One year, six months. They just started.

**Sen. Mark:** Some of them even more. [*Interruption*] Let us say about two years. I am not saying they ought not to be given a licence; I am arguing that there should be some automatic licence arrangement for them. I am afraid that you may have a little favouritism taking place and some genuine people might go through the chute.

**Sen. Seetahal:** Short of not requiring them to be licensed, you cannot prevent it because they always have that chance and they can go to court and say that there is discrimination—and the way things are going, they might succeed. Let them have the six months to apply and get their things in place like everybody else. Then, I can bring an action for discrimination and say why should they who have been acting illegally get something and I am doing it legally and I have to wait six months.

**Sen. Seepersad-Bachan:** Madam Chairman, I would like some quick clarification. Sen. Dr. Saith used the word “may”—“may remain in operation”. Why is he using the word “may”? The next one says, “subject to the application.”

**Sen. Dr. Saith:** You cannot force them to stay in operation.

**Sen. Seetahal:** If they want to, they remain. If they decide to close down and go to Timbuktu, they can do that.

**Sen. Seepersad-Bachan:** Based on the definition we have of “telecommunication service”, it will mean, therefore, the ISPs?

**Sen. Dr. Saith:** If they are doing voice.

**Sen. Seepersad-Bachan:** The PPNs as well?

**Sen. Dr. Saith:** No, they are not public telephone services.

**Sen. Seepersad-Bachan:** It is on a commercial basis. I understand the six-month period but there must be some basis.

**Sen. Dr. Saith:** They can apply after one week. Give them up to six months.

*Question put and agreed to.*

*Question proposed, That the new clause be added to the Bill.*

*Question put and agreed to.*

*New clause 28 added to the Bill.*

*Clause 11 reintroduced.*

**Sen Dr. Saith:** The Attorney General advises that he has no difficulty with the clause.

*Question put and agreed to.*

*Clause 11, as amended, ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, with amendment, read the third time and passed.*

**Madam President:** Hon. Senators, we shall now take the tea break. The Senate is suspended until 5.00 p.m.

**4.18 p.m.:** *Sitting suspended.*

**5.00 p.m.:** *Sitting resumed.*



**INSURANCE (AMDT.) BILL**

*Order for second reading read.*

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):**  
Madam President, I beg to move,

That a Bill to amend the Insurance Act and for matters related thereto, be read a second time.

Madam President, I have pleasure in presenting before this House the Insurance (Amdt.) Bill, which was passed with amendments in the other place last month. This Bill seeks to transfer the supervisory authority from the Supervisor of Insurance in the Ministry of Finance, to the Central Bank of Trinidad and Tobago. In addition, because the expression "Supervisor of Insurance" is referred to in other pieces of legislation, these laws also need to be amended. Consequential amendments will therefore be made to the Financial Institutions Act, 1993, the Central Bank Act and the Trinidad and Tobago Free Zones Act, 1988.

Madam President, the strengthening of the regulatory framework, governing institutions in the financial services sector, is a matter of primary importance for the continued development of sound, orderly capital markets in Trinidad and Tobago and as a consequence a key facet of Government's initiative to achieve its Vision 2020 objective. Adequate regulation is integral to engendering confidence in our financial sector, from both local and international investors.

In recognition of this, Madam President, the Government of Trinidad and Tobago has embarked on a comprehensive exercise to ensure that the entire financial sector is properly supervised and that the stability of the financial system is maintained. The Insurance (Amdt.) Bill, the one we are currently introducing, represents the first legislative stage in the integration process. In fact, in anticipation of assuming its new regulatory function in relation to insurance companies and pension funds, the Central Bank has already started discussions with various stakeholders on substantive amendments to be made to the Insurance Act.

Madam President, I wish to emphasize that the experiences of countries which have varying degrees of integrated supervision have shown that integrated supervision involves a complex process, and in many cases they were protracted.

In considering the approach to be taken in Trinidad and Tobago, the Central Bank, in early 1999, commissioned a diagnostic study to explore the possibility of integrating the supervision of financial institutions in Trinidad and Tobago. The study

found that developments in the domestic financial system were replicating those of more sophisticated markets. One such example was the growing affiliation between banks and insurance companies.

Under the current structure of the domestic financial system, insurance companies and pension plans are supervised by the Supervisor of Insurance in the Ministry of Finance, while banks and other deposit-taking institutions are supervised by the Central Bank. The securities industry is under the supervision of the Trinidad and Tobago Securities and Exchange Commission and the Commissioner for Co-operative Development supervises credit unions.

The study recommended that integrated supervision should be implemented in Trinidad and Tobago on a phased basis. The merging of the supervision of insurance companies and pension plans with that of banking institutions under the Central Bank was seen as a first step in the approach to achieve the ultimate goal of integrated supervision of financial institutions.

The insurance industry is a fundamental cornerstone of our financial system as well as our economic and social existence. This industry provides a unique service in risk transference and, in doing so, is a major repository of our national savings and, consequently, has a critical role in capital allocation. The latest figures indicate that the total assets of the insurance and pension plan sectors exceeded \$25 billion, as at December 31, 2003. It is therefore vital that this industry is appropriately supervised to ensure policyholders' expectations are met and also that the industry continues to develop and maintain long-term viability.

Madam President, the insurance industry has also experienced phenomenal changes in corporate structures, as well as the nature and scope of products and services offered to clients. Growth and expansion, along with alliances and partnerships within the sector, emerged as the chosen approach for many companies to preserve and increase their presence in the industry and to ensure long-term viability and success. This resulted in ongoing consolidation both within and across financial subsectors. Consolidation affords these institutions an opportunity to benefit from economies of scale and to compete from an enhanced position of strength.

Most of the larger life insurance companies operate as part of a corporate group and many have significant transactions with related corporate entities. Along with changes in the corporate structures are scales of operation. There has also been ongoing innovation in the range and complexity of products and services offered. Corporate groups in the banking and insurance industries are

moving towards the one-stop shop concept for financial services. Instead of being restricted to banking or insurance or mutual funds, many of these groups are able to offer a diversified package of insurance, investment and saving instruments. While this can provide the competitive edge, as our financial institutions seek to meet the expectations of today's more informed investors, this also requires a regulatory apparatus that has the appropriate structure and resources to provide effective supervision.

In the past, the different sectors of the financial services industry developed in distinct fashions under different regulatory regimes. It has nevertheless become increasingly difficult for any sector to be properly supervised by any one regulator. As the banking and insurance industries integrate, at the corporate and market levels, effective regulation of both industries requires that the supervisory mechanism be similarly integrated. Integrated supervision has therefore become necessary if regulators are to fully meet the challenges of meaningful supervision of the financial conglomerates that have emerged in our financial landscape.

Industry-specific regulators will continue to experience significant difficulties in obtaining critical information and measuring the risk of institutions under supervision. Accordingly, separate supervisory agencies, operating in an uncoordinated manner, provide opportunities for regulatory arbitrage, which could lead to the impairment of financial institutions. The integrated approach to supervision is therefore expected to facilitate coordinated and comprehensive oversight of the broader financial services industry in the interest of promoting orderly markets.

As previously noted, the consultants recommended, and the Government has agreed, that the merging of the supervision of insurance companies and pension plans with that of banking institutions licensed under the Financial Institutions Act should be seen as the first stage of integrating regulations of the financial services sector.

I think it is well known that the Office of the Supervisor of Insurance has for several years been plagued with difficulties that have had a significant negative effect on its ability to properly supervise the industry within the scope of the Insurance Act. The salary scales of supervisory personnel were constrained by public service salary structures and the compensation packages of the staff, relative to their counterparts in the financial sector, were unattractive. This has made it impossible to attract and to retain suitably trained and experienced persons to function within the Office of the Supervisor of Insurance. Accordingly, it was not

possible to develop a cadre of officers with the appropriate training and unique skills required for this function.

Further, the Office of the Supervisor of Insurance has had to contend with the many competing interests within the Ministry of Finance and the wider public service and, quite frankly, was unable to receive the prominence it demands, in order to supervise the industry efficiently and effectively. The lack of adequate material resources furnished in a timely manner has also impacted negatively on the office's ability to readily respond to the supervisory needs of the sector. Here we had a situation where a sector was growing at a rate but the regulators, because of the structures under which they operated and because of where they were placed, had difficulty responding appropriately.

The Central Bank, on the other hand, is an independent organization and, quite frankly, is independent of the compensation constraints of the public service and, in fact, is better positioned to acquire and retain persons with the requisite competencies to regulate the insurance and pension plan industry. Furthermore, the Central Bank already has an effective supervisory infrastructure in place for banking, which it will leverage to provide a higher standard of supervision for insurance and pensions. This infrastructure has been expanded and suitably modified to accommodate its intended additional supervisory responsibilities for insurance and pensions.

Madam President, the Ministry of Finance and the Central Bank have already put measures in place with the sanction of the CPO and the PSA, to address the status of the current staff of the Office of the Supervisor of Insurance.

Furthermore, as part of the strategies for building institutional memory within the Central Bank, the bank has included the technical staff of the Office of the Supervisor of Insurance in its recruitment process. The Central Bank is also engaged in recruiting staff with insurance industry work experience, to complement its stock of supervisory skills and institutional memory.

In recognition of the differences in the forms of the supervisory authorities, the supervisor being an individual and the Central Bank being a statutory corporation, it is proposed at this time to amend the Insurance Act as far as possible, to procure some level of consistency between the Financial Institutions Act and the Insurance Act.

At first sight, the length of the Bill may appear daunting, 144 clauses. However, upon closer examination, the provisions of the Bill simply provide for the following:

- Registration of all insurance companies and insurance intermediaries will be done by the Central Bank instead of by the Supervisor.
- Cancellation of the registration of insurance companies will be made by the Board of the Central Bank instead of by the Supervisor.
- Cancellation of the registration of intermediaries will be done by the Central Bank instead of by the Supervisor.
- All payments currently made to the Supervisor will now be made to the Central Bank. Moreover, arrangements have also been made to continue the systems of payments through the District Revenue Offices to allow for a smoother transition to the new regulatory authority.
- All payments currently made to the Comptroller of Accounts will be made to the Central Bank and credited to the Consolidated Fund in terms similar to section 41(3) of the Financial Institutions Act.

Madam President, you will note that section 41(3) of the Financial Institutions Act allows for the payment of the amounts held in "inactive" accounts to be paid into the Central Bank and credited to the Consolidated Fund.

- All payments currently made to the Comptroller of Accounts for the account of the Supervisor will now be made to the Central Bank. For example, the existing regulation 5 of the Insurance (Pension Fund Plans Registration Fees) Regulations requires the payment of a fee of \$50 to the Comptroller for the account of the Supervisor of Insurance, in respect of the registration of any plan; and a fee of \$10 for registration of amendments to the rules of the registered plans or correction of the register. These payments will now be made to the Central Bank.
- Regulations previously made by the Minister of Finance, will continue to be made by the Minister but, in order to be consistent with the Financial Institutions Act, these Regulations will now be made on the recommendations of the Central Bank.
- The duties of the Inspector of Banks and the Supervisor of Insurance will reside in one officer, to be known as the Inspector of Financial Institutions. The Inspector of Financial Institutions will be the functionary responsible for the examination and inspection of insurance companies and pension funds in much the same way as the inspection of financial institutions licensed under the Financial Institutions Act. Wherever

appearing in any legislation, the term "Inspector of Banks" it will be repealed and replaced by the term "Inspector of Financial Institutions". The Insurance Act, the Financial Institutions Act, the Central Bank Act and the Trinidad and Tobago Free Zones Act have been amended to reflect this name change.

- All acts and things done prior to the commencement of the Insurance (Amdt.) Act, for and on behalf of the Supervisor of Insurance, pursuant to the Insurance Act, shall have effect as if done by the Central Bank.
- All legal proceedings commenced prior to the coming into operation of this Bill by or against the Supervisor of Insurance shall also have effect as if done by the Central Bank.
- All documents and information, relating to insurance companies and pension funds, held by the Supervisor of Insurance shall be transferred to the Central Bank.
- The appeal provisions under section 205 of the Insurance Act have been amended to allow for consistency with the Financial Institutions Act, 1993. Under section 53 of the Financial Institutions Act, orders, decisions and directions given by the Central Bank will continue in force pending the outcome of an appeal brought by an aggrieved person unless, on an inter parte application or an ex parte application, where notice is given to the Central Bank, the court is of the view that exceptional circumstances exist that warrant the grant of a stay of any further action by the Central Bank.

The amendment seeks to make that amendment consistent with this provision.

I wish to further clarify that in order to effect the required changes, it was necessary to amend numerous sections of the Act and this also contributed to the length of the Bill. While one may note that Part 1 of the Insurance Act provides for the designation of a Supervisor of Insurance and the general administration of the Act, reference is made to the Supervisor of Insurance throughout the Act. Transfer of the responsibility to the Central Bank, therefore, cannot be legally accomplished by a Bill that only amends Part 1 of the Insurance Act. Such a Bill will be incomplete and leave the current legislation with a large number of references to a Supervisor of Insurance, a position that will no longer exist. It is accordingly necessary to have provisions, therefore, to ensure that each reference to the term "Supervisor of Insurance" is appropriately replaced by references to the "Central Bank", the "Board" or the "Inspector of Financial Institutions", as applicable.

In this first step, Madam President, we are not now making the full comprehensive amendments to the Insurance Act, which are necessary to bring the legislation in line with international standards and best practices. We are now not doing this. Formulation of these comprehensive amendments is a part of our holistic integrated programme of supervisory upgrade. I need to explain why we are not doing this. Although some consultation took place during the gestation period when this was being contemplated, in discussions with the stakeholders there were fundamental issues that there was disagreement on. We are trying to resolve those as part of the future issue to bring harmony to the system.

I want to assure this honourable House however, that notwithstanding that the Insurance Act is not being extensively amended, this Bill will accomplish more than just the transfer of supervision. The quality of supervision and the power to intervene will be significantly improved.

There are two main impediments to effective supervision of the insurance industry. One is deficient legislation. The other, which we are addressing by enacting this Bill, is the deficiency in the administration of the existing provisions of the Act. We have noted the weaknesses of the Office of the Supervisor of Insurance, which include inadequate staffing and material resources, as well as deficient operating systems and procedures. The Central Bank will not be similarly constrained. The current provisions will be administered more effectively and this will result in improved supervision. The Central Bank, for example, has developed and staffed a special Market Conduct Unit that will focus on all aspects of market conduct, including the prompt and fair settlement of claims.

Madam President, the Bill also introduces provisions to require the recommendation of the Central Bank, before the Minister can make regulations and grant certain approvals specified in the current legislation. This confers on the Central Bank the necessary regulatory powers to influence these regulations and approvals. The Supervisor of Insurance does not now have this authority. The Central Bank's ability to deliver more effective supervision will be further enhanced by the provisions of this Bill which amend the appeal provisions that are now contained in the Act. The amended section 205 will significantly improve the ability of the regulator to effectively implement enforcement action to have companies comply with the Act, since opportunities for errant industry practitioners to avoid regulatory action by the Central Bank will be significantly reduced. The Central Bank will thus be in a better position to ensure that insurance companies achieve and maintain financial soundness and that policyholders' interests will be secured.

Madam President, this Government wishes to establish a financial sector that is well regulated, well supervised and is able to respond to crises promptly and effectively. By shifting the supervision of insurance companies from the Office of the Supervisor of Insurance in the Ministry of Finance to the Central Bank of Trinidad and Tobago, we will also enhance our ability to deal with the current reality of universal banking where banks, non-banks and insurance companies are all part of the same group of corporate entities. As we proceed with this phased approach to integration of financial supervision, we are confident that oversight efficiency will be improved.

The Government intends to proceed urgently to the other phases of our programme to ensure we have international best practice codes and standards covering the financial services sector. The report of the committee appointed by Cabinet to review the financial sector of Trinidad and Tobago emphasised in its vision for the financial sector that the stability, efficiency, and dynamism of the sector must be supported by the highest supervisory and regulatory standards. In 2002 the committee submitted its report, a Green Paper outlining policy recommendations for the financial sector. In 2004, that Green Paper has been strengthened and expanded into a White Paper on the financial system. The *White Paper on the Financial System of Trinidad and Tobago* details a comprehensive, organised and integrated plan for upgrade of the entire financial sector. This approach, as opposed to ad hoc and fragmented legislative changes, ensures that all areas are addressed in a consistent manner.

Madam President, the White Paper also outlines an implementation schedule with time frames for key areas of financial sector strengthening. Some of the objectives to be achieved include:

- Upgrading all financial sector legislation, including the Central Bank Act and the Financial Institutions Act;
- Development of the Credit Rating Agency and the Automated Credit Bureau;
- Strengthening of the Securities and Exchange Commission and domestic capital market structures. In this area, there have been several public consultations on the proposed legislative proposals which are expected to be settled in the very near future; and
- Development of a legal and administrative framework for the supervision of mutual funds, under the jurisdiction of the Securities and Exchange Commission in the first instance.



Work on most of these objectives has already commenced. In particular, substantive amendments in relation to the Insurance Act are already in progress with initial input received from the industry. It is expected that amendments to the Insurance Act will incorporate provisions to introduce international best practice in insurance supervision. Other areas to be upgraded will include:

- The content and frequency of statutory reporting;
- Revised investment criteria;
- Corporate governance requirements;
- Expanded responsibilities for auditors and actuaries; and
- Increased minimum capital and continuing risk based capital requirements.

Research on the matter of policyholders' protection legislation is also being reviewed at the Central Bank. Various forms and structures of guarantee funds and their levels of success are currently being investigated. Attention is also being given to the research and proposals on the introduction of a Motor Insurance Bureau to deal specifically with losses from uninsured drivers.

The Central Bank, in conjunction with the Ministry of Finance, is scheduled to finalise these comprehensive legislative proposals that fully reflect the peculiar environment that makes up Trinidad and Tobago and formulate into a draft Bill.

The process of reforming the financial sector, to ensure that it meets the needs of a diversified and modernised Trinidad and Tobago as envisaged in our Vision 2020, is an essential policy objective. One of the reasons this Government is very, very much interested in making sure the financial services sector continues to do well and continues to grow has been the call by many commentators for diversification away from the energy sector.

I wish to reaffirm that the objectives of this Bill are germane to this Government's commitment to promoting sound financial markets by establishing good macroeconomic conditions and by building institutions.

Madam President, I beg to move.

*Question proposed.*

**Sen. Wade Mark:** Thank you very much, Madam President. The Bill before us addresses the issue of the transfer of responsibility for the supervision of

insurance companies from the Supervisor of Insurance to the Central Bank and the post of Supervisor of Insurance would be abolished. The Central Bank, as such, would now be responsible for the administration of the Act and regulating insurance companies and all related entities.

The Minister spoke only to the issue of insurance companies. I would imagine that if he looks at the Insurance Act, Chap. 84:01, apart from the responsibility for supervising insurance companies, the Supervisor of Insurance is also responsible for the registration, monitoring and supervision of pension plans in Trinidad and Tobago.

I think the Government is using this opportunity to centralize its operations, as it relates to regulation of the financial system with the long-term objective of ultimately controlling the credit union movement. I think this is a major step in that direction. The Central Bank—as the main institution that is responsible for monetary policy in Trinidad and Tobago, which results in exchange rates stability and also the determination of interest rates nationally—is now being given an additional responsibility as in other jurisdictions such as New Zealand and the United Kingdom. An independent authority has been established in those countries to monitor, regulate and manage insurance companies and pension plans.

We have to wonder whether the Minister, in transferring this responsibility to the Central Bank, has taken on board that bank's capacity to do the kind of work necessary, as it relates to insurance companies and pension plans, and at the same time to adequately carry out its duties to the national economy and the society, as it relates to its essential duty: monetary policy, arriving therefrom exchange rate stability and interest rates, generally. It is an area that I feel the Minister ought to look at.

Madam President, as you are well aware, whilst we are here seeking to give to the Central Bank more power to supervise insurance companies, both life and general and to supervise approved pension plans in the country, we ask the question whether the Central Bank is adequately poised in terms of staff, capacity and given its range of responsibility, we want to know whether the Central Bank is up to the task. Are we going to change the members of the Board of Directors of the Central Bank, seeing that there are many nondescripts occupying critical positions at the present time? The Government is now going to give them more power and responsibility.

The Minister said that the insurance industry today, in terms of value and assets, is worth more than \$25 billion. He did not tell us that the pension plans are almost the same amount. That is also going under the supervision of the Central Bank.

We are debating the Central Bank, which has been taken to court by Mr. Hubert Alleyne, because of the political manipulation by the political directorate of the Central Bank Governor. I would like to know how independent is the Central Bank Governor to be responsible for \$50 billion? The pension plans are worth approximately \$25 billion. Based on what the Minister has said, insurance companies are worth another \$25 billion. I think the quality of administration and management, along with the quality of the policymakers in that institution, needs to be revisited. I do not know if the Minister has taken this on board. It seems to us on this side, it is a case of pouring new wine into old bottles. I do not think you can just give unto the Central Bank this kind of power and, at the same time, bring to the Parliament on February 03, but tabled two weeks ago, coming from the Attorney General's library—the disrespect and contempt they have for the Parliament—an order called the Freedom of Information Act Order, exempting the Central Bank—[*Interruption*]

**Sen. Jeremie:** On a point of clarification. This is an order from my library?

**Sen. W. Mark:** Yes, it is stamped.

**Sen. Jeremie:** But my library has no power to give effect to legislation.

**Sen. W. Mark:** No, you did not get my point. You are new to the fact. I would not pursue you.

Madam President, here it is, we are dealing with the Central Bank and, at the same time, the Central Bank is being given more power through this legislation. We have the Central Bank, through this Government that speaks to the issue of transparency, openness and accountability, bringing an order to this Parliament to exempt the Central Bank from public scrutiny and remove it from under the Freedom of Information Act. They are going to be in charge of \$50 billion.

**Sen. Enill:** I just want some clarification? Is the Senator saying that the policy position and all the work done by the former Governor of the Central Bank, Winston Dookeran, who brought us to this place and who, at that point in time, made the determinations about the suitability of moving supervision in this country, that we should discount that? I want to be clear on what he is saying. This is one of the pieces of legislation that you started and we agreed to. I am just trying to understand. [*Interruption*] I would deal with that differently. I just want to clarify that. Not this issue, that issue.

**Sen. W. Mark:** All I am saying Senator, we are giving to the Central Bank more power, in this instance supervision of insurance companies and pension

plans. I am asking the question whether you have examined—in the context of its current capacity, given the quality of leadership—that institution to see whether that institution is properly poised to carry out such a mammoth task? That is my submission.

In addition, whilst we are seeking to give to this institution more power and responsibility, the Central Bank wants to run its organization like a secret society. They do not want us to have access to information. If you have a pension plan and your organization needs to get information from the Supervisor of Insurance, which is now under the purview of the Minister of Finance, we can now go to the Minister of Finance and get that information. The Ministry of Finance is part of the Freedom of Information Act. I can call on the Ministry of Finance and demand of them, the provision of information that I would not ordinarily get from the Supervisor of Insurance. Here it is, we are going to give the Central Bank the power and responsibility to be supervising all insurance companies: general and life; all pension plans: approved and self administered, among others. We are removing the Central Bank from public scrutiny. It does not make sense. How can we support a measure like this? [*Interruption*] No, I will talk to you after, behind the Chair. I know I have you confused. You are already confused and now you are more confused. We will talk behind the President's Chair.

Something is at odds here. The Minister in the Ministry of Finance must tell us whether the Government, when they brought this measure, had this amendment in mind. We want to know whether it was premeditated or a reaction to a demand made by an organization to get information from the Central Bank and the Central Bank believed that it should not open itself and its operations to the public of Trinidad and Tobago.

On that score alone, I would ask the hon. Minister, either to make a categorical statement this afternoon, that this that was laid in the Parliament was an error in judgment and he would take steps immediately to have it withdrawn, having regard to the fact that the Central Bank is now being given new responsibilities and duties. They must be accountable to the population of Trinidad and Tobago because of this new responsibility. I call on Sen. The Hon. Enill to withdraw this notice, which came from the Government: this vicious, criminal and evil Government. He is part of it. He might be an innocent “fella” but they are engulfing him in evil.

**5.45 p.m.**

Madam President, I am going to spend some time this afternoon on pension funds. The hon. Minister skirted this issue. Before I do so, there are some areas

that I need to clarify and put in some kind of perspective. I want to refer to clause 4(2) of the amendment that is before us which says that the Central Bank may, whenever it considers necessary, cause arrangements to be made for the services of an actuary or any other competent person to be made available for the purpose of advising the bank on matters arising under this Act.

Madam President, we have started off on the wrong foot. One of the reasons that this is probably taking place is that the Ministry of Finance has been guilty of dereliction of duty and responsibility to the Parliament and the national community by almost starving to death the Supervisor of Insurance—no staff, no power and no resources.

Do you know that the last time a report from the Supervisor of Insurance was tabled in this Parliament was in 1997 and 1998? I have been trying to get reports on the Supervisor of Insurance to make an analysis, to see trends and to see what is happening in that industry. So what has happened to the reports for 1999, 2000, 2001, 2002 and 2003?

What I am saying is that matter has not only been going on now. The PNM was in existence since 1956. *[Interruption]* I am telling you that this is not today. The Supervisor of Insurance has been starved for years under your regime. So, here it is the Central Bank is going to be responsible for regulating, managing, supervising and monitoring all insurance companies and all pension plans. They are saying that the Central Bank may, whenever it considers necessary, cause arrangements to be made for the services of an actuary to be engaged.

One would have thought that of all the institutions—being given this responsibility and understanding its duties—the Central Bank would have employed actuaries. That is what they have to do. They have to employ them. Do you know what I suspect would take place? There are three actuarial firms in this country namely, Bacon Woodrow and De Souza, KR Consulting Trinidad Limited and Apex. Is the Central Bank going to hire these firms when they want to get professional advice since they are not going to be employing actuaries? Are they going to hire the same actuaries that are employed by insurance companies? I am trying to understand whether the Minister of Finance has given this matter sufficient thought. We are going to have a conflict of interest arising if we do not have independent persons advising the Central Bank in this particular area. I believe it is an area that the Minister needs to pay some attention to.

In clause 7, the Central Bank is supposed to be giving some report. We hope that we would not have the same experience as we had under the Supervisor of

Insurance in tabling these reports on a timely basis to the Parliament. We need to be properly informed of developments and activities in Trinidad and Tobago, insofar as the insurance industry is concerned. There is provision in clause 7 of the Bill to ensure that the appropriate reports are submitted on a timely basis to the Parliament of Trinidad and Tobago.

Madam President, pension is a big issue in this country. I think that we all know the role and the responsibility of the Supervisor of Insurance, insofar as pensions are concerned in Trinidad and Tobago. The Supervisor of Insurance has a responsibility to register all pension plans in Trinidad and Tobago as well as amendments to those plans. The Supervisor of Insurance is also responsible for receiving all audited statements in respect of pension plans, and must ensure upon receipt of those statements that the investments made by these pension plans are in conformity with the insurance schedule.

Under the Insurance Act, Chap. 84:01, there is a second schedule, which guides the Supervisor of Insurance, as well as persons who are responsible for the management of pension plans, as to how and where pension funds are to be invested. There are also restrictions in that regard. The Supervisor of Insurance has a very important responsibility. In this country, all that we have governing pension plans are draft regulations.

I want to ask the hon. Minister in the Ministry of Finance if there is any intention on the part of this regime, to introduce a comprehensive pension plan for Trinidad and Tobago, one pension plan that would govern pensions in the country? Is there any plan for such a Bill to come to this Parliament very shortly? There is nothing in law. There are draft regulations that were never promulgated properly, and those are the regulations that governed the Supervisor of Insurance, insurance companies and pension plans in the country. I think that if we are talking about a Green Paper and a White Paper on the subject of financial reform, one of the areas that we must focus on is the area of a well-integrated comprehensive pension Act.

Madam President, we would like to know whether the new Inspector of Financial Institutions would have greater powers than the Supervisor of Insurance, or whether it is business as usual? Would the Inspector of Financial Institutions be the same person who would be responsible for the banks? We would like to know—the individual who holds that office would have a division or a department with sections—whether the same Inspector of Financial Institutions would be responsible for the supervision of banks and non-banking

institutions like finance houses? Would the Inspector of Financial Institutions be responsible for all insurance companies? Would the Inspector of Financial Institutions be responsible for all pension plans in the country? I do not know. I did not see anything in the legislation indicating to me that is not so. Would this Inspector of Financial Institutions ensure that breaches of the Insurance Act are dealt with swiftly and speedily, particularly as it relates to workers' pension plans? Workers' pension plans have virtually undergone a lot of trauma, trials and tribulations in this country.

Madam President, I do not know if you are aware—and the Supervisor of Insurance and the Minister of Finance must take responsibility for what has happened—that when Air Caribbean went into liquidation and collapsed in this country, workers did not receive one cent although they contributed to a pension plan. So whilst we are making our contributions to a pension plan, the employer is not doing it. When a company collapses, the workers are left high and dry. Now, if the Supervisor of Insurance were monitoring these pension plans properly—receiving monthly reports or quarterly reports or visiting these companies directly—then the workers of Air Caribbean would have received their pensions.

Madam President, today as we speak, the National Broadcasting Network (NBN)—the company that Sen. The Hon. Dr. Lenny Saith is in charge of and the workers he intends to lick up very shortly—could close today and open tomorrow. The workers would then be asked to reapply for their jobs. That is his plan for NBN. Do you know as we speak, what is happening? Workers are making payments to their pension plan and the employer is taking out their money and they are not putting it in the pension plan. The employer is not contributing to the pension plan. I would like Sen. The Hon. Dr. Lenny Saith—who is very anxious to close down NBN to create his own propaganda station in its place—to take his time and look after the workers' interests at NBN. They could suffer the same fate as the workers at Air Caribbean. I want the Minister to take some time off and deal with that matter.

**Sen. Dr. Saith:** Madam President, the pension fund for NBN workers would be fully funded by the Government [*Desk thumping*]

**Sen. W. Mark:** Well, I am very happy to hear that because I want to ask the Minister a second question. You know, he is the Minister “at large” now; he is *extraordinaire*. He is in labour matters and he took over the Ministry of Health. I do not know if he is involved in prosecution matters now, but it is quite likely that he may be because I know he has a very devious mind.

*Insurance (Amdt.) Bill*  
[SEN. MARK]

*Tuesday, May 18, 2004*

Madam President, I would like to ask Sen. The Hon. Dr. Saith if he is aware that in the case of Caroni (1975) Limited, the management deducted contributions for years but never remitted the contributions to the plan? The employer never made contributions to the plan, and this plan is now in a deficit to the tune of a billion dollars. I would like to know whether the Government is going to address this question?

I have information involving a number of workers who were deceived and duped by the PNM, although they were told to hold on to their jobs. This Government is a Government of deflection. They engaged the politics of diversion. Whenever they are in trouble they create red herrings. That is what they do and that is how they survive—“coke” in diplomatic pouch, red herring. I really admired the hon. Minister of Foreign Affairs. He came here and took full responsibility for what has happened, but he is still seated here. You should resign! That is what you should do! If the Minister is a man of principle he should go like Larry Achong. Larry Achong is a man of principle. [*Interruption*] I am dealing with the politics of diversion and deflection, but I will come back to that matter.

I want to tell my honourable friend, Sen. Dr. Saith, that I have the names of these workers, but I would not call their names. These workers were promised an enhanced pension package in return for execution and slaughter. They have lost their jobs and they were told that they would get an enhanced pension in return. Today, after 40 years of service, workers at Caroni (1975) Limited are receiving—because the Government has failed to meet its obligation and commitment to these workers—\$129, \$63.91 and \$171.86 per month. I have a list of workers who are receiving a pittance. The Government gave a commitment to these workers—go home, we have a plan for Caroni, and give up your jobs. What was the plan? There was no plan.

Madam President, as you know, when you get your pension—you will know because we all have to retire at some time and some will have to go before others—it is  $66\frac{2}{3}$  per cent. That is what you are entitled to. Police officers get over 85 per cent to take home, we would get  $66\frac{2}{3}$  per cent. Do you know what you have to do? You have to pay for your mortgage and your car. When permanent secretaries are working they would be driving nice cars, but as soon as they retire they would drive the same car for the next 20 years, because they cannot afford to buy a new car. That is so because the pension that they are taking home is minuscule. That is another matter that the Minister would have to address because I would say something on that matter in a short while.



Madam President, when you get your pension, 50 per cent would be given to you in the form of a lump sum and that is what would be used to pay off your mortgage and other debts, and the next 50 per cent would be given to you in the form of a reduced pension. How could a worker in this country survive on a pension of \$129 a month after working for 40 years in the sugar industry? It is inhumane. The Government of Trinidad and Tobago promised these workers that they were going to enhance their pensions, and like lambs they went and they got slaughtered. Today, they are still without an enhanced pension. It is in a deficit of over \$1 billion. I would like to ask Sen. The Hon. Dr. Lenny Saith who was instrumental in this whole execution plan, what is the position with respect to the enhanced pension plan for workers of Caroni (1975) Limited.

**Sen. Dr. Saith:** With respect to the numbers that the Senator called, I do not know if they are correct, but knowing him they are probably incorrect. What I can say is that the Government negotiated with the trade union representative with respect of the voluntary separation package. The Government is committed and it is keeping all its promises as per that agreement. There were three pension plans: one had a surplus—I believe it was the monthly-paid staff—and we have allowed the benefits to be increased in respect of that plan. Where there was a shortfall with respect to the other plans, the Government is committed to putting in the money to make it whole so as to provide—in accordance with the agreement with the trade union and the letters of voluntary separation—all the benefits that we have promised the workers. [*Desk thumping*]

**Sen. W. Mark:** That does not take away from the fact that a worker with 40 years service is living on \$129 a month pension. I just wanted to bring this matter to your attention, because I think the Minister in the Ministry of Finance must be conscious and aware of these developments. I raised these points to indicate the importance of maybe having some office holder who would be singularly responsible for the monitoring of pension plans in Trinidad and Tobago. It is clear that when the pension plan was under the Supervisor of Insurance it was an orphan. They took no care of that child. It was as a bastardized child.

Madam President, do you know that all the investments that you are seeing on the capital market are pension funds that are floating on the stock exchange? They are using pension funds and gaining income, yet they do not want to protect workers' pension plans. It was the pension plan that saved Trinidad Cement Limited (TCL) from a takeover bid from Cemex, and they are coming again. Workers have now realized that they have powers with respect to their pension plans.

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When the Oilfield Workers Trade Union (OWTU) told Republic Bank, Royal Bank and First Citizens Bank where to vote, they voted because if they did not vote they would have taken out the workers' pension plan and put it in other institutions. Because of the workers' pension plan TCL remains TCL today. The power and the value of that plan, in terms of shares, were able to defeat these people. I think that we need to streamline pensions in this country. As I said, we should have an omnibus unified pension Act for this country.

I want to indicate that with respect to this Insurance Act and pensions, when we retire all these things would mean nothing to us if the Government of Trinidad and Tobago does not take the necessary steps to ensure peoples' safety and security in terms of life and limb and property as this would mean nothing to us. Today, under the PNM, life is almost worthless. People are dying and disappearing and it means nothing to them.

Madam President, even though the Prime Minister of this country got back on his foot and sought to correct the error that he made, it was a shocking thing. I would not tell you exactly how this thing came across. People are very angry in this country. In terms of power, that is when your head gets swollen.

I want to move now to the public sector as it relates to pensions. In 1992, the cost to the government for providing public service pension amounted to \$391 million; in 1997, it went to \$562 million; at the end of 2002, it went to \$2 billion; at the end of 2004, it is anticipated that it is going to be over \$2 billion; and old age pension and public assistance is about \$1 billion. At the end of 1997, pension was one-tenth of the national budget.

Madam President, I think that the Government is recognizing this dilemma that is facing them. The reason I am raising this matter is that in Argentina the economy has collapsed and pensioners cannot get their pensions. Do you know what they are doing? They are going into public offices and literally hanging themselves because they cannot obtain their pensions. The reason for that is that pension is a direct cost on the Consolidated Fund.

**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. S. Baksh*]

*Question put and agreed to.*

**Sen. W. Mark:** Madam President, I want to indicate that the reason I raise this point is the fact that there is need for us to recognize that the government of any country has to take on board this question of pensions, particularly in the public sector and, in this instance, the public service. I believe that the time has come when the maximum amount of money entitled to workers after working in the public service for a number of years should not remain at 66<sup>2</sup>/<sub>3</sub> per cent. I think that sum should be increased to 85 per cent. Public officers should get the same kind of pension that police officers are getting, but in order to do that, the Government recognized that it had to do something.

I recall in April 2002, the Minister in the Ministry of Finance, recognizing what was taking place with respect to pension contributions as it relates to the burden on the Treasury, invited the International Monetary Fund (IMF). The (IMF) advanced a number of options for pension reform in this country. Now there were some very far-reaching proposals and recommendations advanced by this team from the International Monetary Fund.

I want the hon. Minister to tell us in this Parliament what has happened to this report. Has the Government of Trinidad and Tobago denounced this report? Has the Government of Trinidad and Tobago thrown this report in the dustbin? What has happened with the report of the International Monetary Fund on pension reform? I would like the Minister to tell us. As a public officer, you are going to be affected, every parliamentarian would be affected and every public servant would be affected. I want to find out from the hon. Minister whether this plan has been thrown out in the dustbin of history, or whether the Government of Trinidad and Tobago is still looking at that plan. We would like to know. The Minister owes us a proper explanation insofar as this plan is concerned. I would like the hon. Minister to tell us: Where is this plan? Is the Government going along with this plan? If the Government is not going along with this plan, I did not hear a public condemnation of the plan. That is why I am concerned.

#### PROCEDURAL MOTION

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Madam President, in accordance with Standing Order 9, I beg to move that the Senate continue to sit until the completion of the debate on this Bill.

*Question put and agreed to.*

#### INSURANCE (AMDT.) BILL

**Sen. W. Mark:** I would like the hon. Minister to tell us what has happened to that plan and whether the Government is still embracing this plan, or whether the

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Government has condemned the plan. Madam President, this plan that the IMF has advanced would affect civil servants, teachers, firefighters, doctors, old age pensioners and daily-rated workers. I want the hon. Minister to tell this Parliament this afternoon what is the Government's position with respect to this plan.

Madam President, we feel that the Government has a responsibility to deal with this matter. In terms of deductions—the Minister could tell me if I am right or wrong—at one time a percentage of your yearly income used to be allotted or assigned for pension purposes. Today, I think based on an amendment to that Act—which was a policy decision taken by the PNM Government back in 1993 or 1994—the maximum that one could exercise or enjoy when one takes out an annuity plan is \$12,000 a year.

I am of the view that as an instrument of savings, which is what we are supposed to be driving and pushing in this economy, I thought that the Government of Trinidad and Tobago would have looked at that particular sum, and instead of having a ceiling of \$12,000 on an annual basis for tax purposes, tax allowances and exemptions, this amount should be \$15,000 or \$18,000. I think the Minister ought to give that matter some attention.

As a result of the increases that have taken place in the international oil market, the Government had budgeted at \$25 a barrel—and the average is about \$34 and it is going on a high of \$41 or \$42—and since the budget was read in October to the present time, I understand the Government has realized over \$2 billion. I would like the Minister of Finance to tell the Parliament tonight what is the amount of revenues realized by the Government of Trinidad and Tobago, as a result of the oil bonanza, the windfall. The Government should let us know what it is doing with this excess cash—whether they have collected it, or whether it would be collected shortly. We need to know.

The Minister has a duty to tell this Parliament on a regular basis what is the state of our national accounts. What is happening with this excess revenue? What is the Government's plan? Is the Government going to put aside another \$1 billion or \$2 billion in the Revenue Stabilization Fund, or are they going to expend that money on makeshift or make-work? What is the Government going to do? I think the Minister of Finance has to tell us something.

The Central Bank is being given the responsibility to manage, supervise and monitor insurance companies and pension funds. The Central Bank is also responsible for monetary policy in Trinidad and Tobago. We would like to know in this so-called oil rich economy, which is now gas driven—we still have much

poverty in our country. It is a paradoxical situation. While the economy is expanding, unemployment is rising. One would have expected unemployment to fall as the economy is expanding, but unemployment is rising. People are supposed to be living in a prosperous economy, but instead there is pain and suffering in an economy with \$67 billion, and in an economy where we have a budget of over \$23 billion.

Madam President, what is happening is that the Government believes that it could run an economy by handouts. That is not the answer. With respect to this Insurance Bill that we are dealing with here tonight, I hope that the new Inspector of Financial Institutions would be able to understand the responsibility of that office, and not make the same errors that were made by the Supervisor of Insurance—not because of the individual’s fault but because there were no resources, no staff and no power. If we do not have these things, how can we move forward?

Madam President, this is like telling the Leader of the Opposition to stop playing the fool and get on with the business of supporting the Government with anti-crime legislation because someone died in tragic circumstances. They are using murder where someone was killed to come and tell the Opposition that it must come along now and support them in legislation. This was so insensitive and cruel, and they want us to support them. How can we support them when they are killing our children? We cannot support any government like that.

Our only responsibility in this Parliament is to remove the PNM. We have no other responsibility. They could charge people as much as they want, they could trump up charges as much as they want, but the reality is that it is not going to stop the UNC; it will not stop the alternative government; it will not stop the people. Crime will not fall because they charge people in this country. There will not be a reduction in poverty, and unemployment will continue to rise.

Madam President, I could predict here today, just as the sun rises and sets, the PNM’s time will come. It is a matter of time for them. The people have patience; we have patience, and the time will come when the people would speak in a resounding and collective voice and they would say enough is enough. And as the Organization for National Reconstruction (ONR) said in 1981, “Do not blame the Government fire them”.

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

**Sen. Brother Noble Khan:** Madam President, after hearing such a beautiful speech to come after the Senator I may sound a bit flat, but I will share some thoughts on this matter that is before us.

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Some elements came to my mind and the one I would start off with is the question of the concept of hiving off. I know our colleague, Sen. Mark, has covered quite a few points, but possibly to bring my own, I would have to run over some, so please forgive me if you find that the points are recurring.

On one hand, there was a financial system that had been in existence since pre-independence, and that has informed us up to now, and what we are seeing is a series of piecemeal legislation.

**6.30 p.m.**

It seems to me that at times there should be some address, even conceptually, where we overlook things, not that we do not see them, and come up with some form of conceptualization and put this into practice. In a situation such as we are in here in this Senate, and the other place too, the need for having a sort of concerted overlook will arise from time to time.

The question of hiving off what has been said from a highly centralized point, we have had that experience taking place in about the early thirties, I think, in the United Kingdom, and that is the example we have been following, and later on that expanded by the influence of other international organizations which have made this emergence since then. Here we are today with a sector which happens to be one of the biggest sectors in the economy, the financial sector, in the area of insurance.

It comes to my mind that maybe I suspect one of our biggest conglomerates in our country here has its origin, its genesis, within the area of insurance and it has spread all over. Traditionally, as countries develop—this is my humble view—this area is one in which we need to have some supervision, some overlooking, and this is where the Supervisor of Insurance emerged.

We have heard the argument made by the system that obtains as far as our Constitution is concerned, and the form of Government, it is highly central, spinning instead of outward, in a centripetal way, spinning inward towards the centre. Here we see manifestly a good example of that where the attempt to hive off is now being centralized in one area that ironically carries the name Central Bank [*Laughter*] where you have on the one point, the Supervisor of Insurance having a function and feeding up through the system of accountability through the Minister of Finance, and ultimately into this Senate in a day-to-day way without being shifted away.

We have heard, and I, too, subscribe to the point of though we are in a position of having some of these agencies classified as independent or being

separate, the support, the sustenance is still held by another sector, and in this case here, a political sector, where there is funding, substantially, and the means—like in areas of staff, we have heard that just now—being in the hands of another entity.

How then can these organizations be allowed to work? I would not mention the question, but we are aware of the bureaucratic process that obtains in some of these agencies, and I would think that the Supervisor of Insurance is formed within this structure. How then could we adjust this question? Is it one that even as we have heard earlier, that you had what has been referred to as a sort of dialectical convulsion where, on the one hand, there is a movement away in today's world where we are thinking in terms of more open Government, more participation, we are now moving away from that in that we have just heard the question of that piece of legislation that is supposed to come to us as far as openness is concerned.

This, to my mind, is a conflict in itself. I think that could possibly be addressed. Now, on the other hand, you have the Central Bank created at one time for a specific purpose, and some of us could remember how that had started, the foreigner had come in and we started under the Treasury building and it has grown somewhat. One could even relate those early days too when the insurance world was able to support—even when the central government was short of cash—there were mechanisms being put in place to ensure that even civil servants got their pay.

This is part of our history, so there seems to be a strong linkage, one with the area, at least what is before us, of how we put our financial areas together, because not too long ago there was much concern when it was mouthed, the question of the Unit Trust Corporation (UTC) and some of us could remember how that was formed. It was a small man thing that, through the Father of the Nation, had started at \$10 and we learned how that \$10 had gone down, then moved up into \$20 where it was broken down to \$10 and that was moving towards the \$20.

These are some of the things that come to my mind from the historical process, and even the banks themselves, some of the Government banks, they started with the BOLAM Bank, I think it was, Workers Bank, Penny Bank—that is the first bank I was a member of and I still remember and cherish those days. That has gone down through management or banking skills, but by the amalgamations of these same agencies, these three separate banks have grown and today form

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part of the system. I would take it that management was one of the inputs that caused it to arise.

Of course, the system of the economy, the buoyancy of the economy may have had something to do with it too, because very often in the banking world one would hear that the banker has very little risk and he is not an enterprising person, apostrophize all of that, because whatever he does, he is assured, and this again bears some relation to more systems of banking outside of what we are practising. It might be important to see how these systems work outside of what applies if we are to open the system and allow for full participation by even the small man, to some extent.

Within the framework of this now, we see that the Central Bank is now taking a new role from the early perception, and the attempts being made, at least, this is what has emerged within recent times of all the eggs, so to speak, coming to one area—the Central Bank. We have heard the arguments made that the question of efficiency, of effectiveness, and things like that, by what could be derived from that, but the same question could be looked at from the next end. Why did it not arise, say, under the Supervisor of Insurance who was responsible with direct control over that?

This is an important factor and that idea could be extended into other areas of governance. The police service, for that matter, because even the Public Service Commission and the CPO, how they interact. One agency being responsible for setting conditions and setting salaries; the other agency being responsible for setting appointments, employment and another set of parameters. These are some of the things for which the Constitution provides and for which we have not, I suspect, met that challenge. Who is responsible for that? We could look at ourselves when we think in terms of that. This is an important factor.

The fault might not be in our stars, but in us. This is an important aspect, when we could think in terms of what we are about. The shifting, then, of this area into high concentration, as I have said before, the question of where is the world moving into; the spread out, the question of accountability, the question of transparency. This sounds like a cliché, but then again, the question of opacity, which seems to cloud us and, regrettably, when it starts to find expressions in our mind, God help us.

This is one area at which, I think, we could look. It has caused some concern to myself, and I know that very often one may have what has been referred to as a sort of pseudopartnership which might appear to be taking place now, but the



question is, would that in itself become a threat? This is an important factor, that what we hope to achieve, we have the exact results emanating out of that.

While we may think in terms, particularly, in the sophistication of what has been referred to as the intelligence that has emerged within recent times, apostrophizing education and knowledge base, and what have you, how does that feed back into the matrix down below—the small man? If we were to look in the area of increasing prosperity and apply that to what takes place in our society, we would find that it has not reached down.

I will share a personal experience, that I used to bathe in my home in the bathroom, but now I have to go down the road by the pipe. To me it does not mean much. I enjoy the, how you put it, *al fresco*. Of course, I belong to the old tradition. I see about my wife properly by ensuring that I walk with my buckets. This may apply to me personally or to other people, but to upgrade part of our population—and I live in the heart, I would say, of the East-West Corridor, in Laventille. I am not bringing my own personal affair to beg a case, but this obtains, and it obtains to quite a substantial number of people.

While we go through these sophistications of what we are about and centralizing and bringing it together, it is for whom? Who does it benefit? Who will it benefit? We have heard it said before that alternatives arise, and if one were to look at the paper this morning, one would see a great presence of alternatives. These alternatives are in existence for quite some time. Some may even trace this back to very early days, centuries backward.

Though it has been said and has been worked out, there are marginal economies and there are sophisticated economies and multi-economies existing in a small place, not even 2,000 miles square, there are also alternatives that extend into our minds. If we do not address that, well, one would have alternatives, and the alternatives I am speaking about is not by exchange, as what we see here, where this side goes on that side and that side comes on this side, but this Senate has been the repositior of what an alternative looks like, and even that we have not addressed properly. Questions have been raised but no answers given—at least in a formal way.

This is a very significant piece of legislation. It touches the very soul of our land. We are dealing with money, we are dealing with the cement that holds things together, and we know in this highly materialistic world what obtains, particularly among our young. Even as we may think in terms of expressing in an esoteric way, the question of the esoteric is most important. How does it affect us

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in our plate, in our “bolee”, in our pocket? My dear sister is asking me what is a “bolee”. It refers to a calabash.

On this point, what we do—I am stressing that point again of this enigma that may exist between ourselves here. Here we are on a road going along a certain way and we are one generation, two generations, even within the same generation, the explosion of knowledge base and ideas, all based on the gas and the oil to the east and the north, and change our vision. Well, of course, we must have a change in vision, but the substantial parts of it should obtain and should inform us, because we could forget so easily and so quickly, what is encoded within ourselves, our very genes, to look for our brother, sister, mother, father—our children.

It is very important. Because if we do not address these questions properly, and this, as we have heard, deals with pension. We are thinking about the future and when we think in terms of the future, we think of old age, and also, our young. So we could see the nexus of what I am speaking about here that might be relevant to what we are about, and its feedback into the society. If we do not have our concepts right, we are way off track.

Coming back again to this concept of the highly centralized system that we are reinforcing and holding all together, is that the model that we would like to really see? We have heard the expression, and I guess that is why it is before us here, very brilliant exposition given to us by our worthy Minister in the Ministry of Finance, as he always does and, of course, we appreciate it, but definitely, what we are about, we have to address against a background of one, where we want to go. Is that the path? Is it leading us to the way that we really want to—what we have been talking about all along and has been so elusive?

How long have we been independent, 1962? I just used a little example here to see how far we have reached in the areas of social interaction. I guess like myself, all of us could definitely hang our heads. Would centralization bring that? Would participation? We have heard from the very first day I came in, I spoke about participation, cooperation, involving the people, so to speak, but are we only paying lip service to this?

Do not think for a second that the manipulation of your fingers here in a puppet is really extending outside there to our people. Do not think for one second that is so, because the collective wisdom of the people is not inside of here. We happen to float up inside of here, but the collective wisdom is still outside despite all the doctorates and all the university degrees, and so forth. Collective wisdom

still exists outside. We happen to be the cherished few, and I think our people still appreciate that. So, to some extent, as we go about this question of accountability and transparency, would that be achieved? These are some of the things that occupy my mind.

In ending, Madam President, I would like to think in terms of who benefits. It is heavily skewed. Even in the insurance that we collect—because I would like to make a personal appeal in the area of insurance and the area of seeing about people. When I first started to work in the Government service, I was 18 years old, straight out of school a little and then I got a job. It was in the Registrar of Friendly Societies.

I always look back to those days. I met people who impressed me, as I was at a very impressionable age. I could call some names. They have all gone. Mr. Noel P. Bowen, Mr. Hector Deeble, Mr. Ramrekersingh. There are some still around, but these gentlemen and the Registrar of Friendly Societies had left an impression on me which is still there.

Not too long ago there appeared to be a sort of desire or need to bring it back into place and I would dare say that the Ministry of Community Development, Culture and Gender Affairs has some initiative in that, and I definitely hope that it will succeed. It is an area which, from the early days, from slavery days that had started, until around 1880 or thereabouts, they brought laws into the books where people would get together and still bring a little pool and take care of themselves.

I remember when my mother-in-law passed away, it was part of the system. She stopped paying for her card for quite some time because she made up the time to collect the little bit—you know, the payment that was made, of death benefit. Though it was small, it was still appreciated. She looked forward to it and there was a sort of self-involvement in it. A few weeks ago when there was the celebration of that day, I was in it and it brought back fond memories.

Even in that, within recent times, an example of it, a pool of each one putting \$100, in a year's time they were able to take care of all the deaths that occurred within the pool, and afterwards, the money that remained after they took a little for expenses and saw about proper burial, and so forth, they were still able to give a return back from the pool of about 50 per cent, thereabout. So out of \$100 they got back \$50 after settling.

I said this because of the indication of the value that derived from just \$100, and this was young people, old people, within families. One could imagine, if I reflected, what takes place in the area of the insurance industry. The extent to

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which so much is drawn out. If we were to take that little pool of 50 per cent being returned on \$100 per year—and it has a whole spectrum from young to very old, in the 80's, and what have you, after taking care of deaths for that, what obtains in the big system? So perhaps, it flashed in my mind that while some of these conglomerates have emerged, are they taking too much? Who benefits?

Of course, we hear about mutual insurance companies and how they do it, but they have a way of ensuring—though you put your money and they call it mutual, excluding you. I do not know the extent to which this—I guess all of this is legal, but still, I come back to the point that please, I make a plea that in the area of the friendly societies, whatever we could do, please let us see—not in any way of a palliative or handout, the dynamic about it—what could be derived from that area.

The question here is, which way will we go? Obviously, we have heard it said that it is a matter of the Government policy. One could understand that, but the high concentration in one area, in institutions and what have you, still remains a big question in my mind. I could understand it, but also, the taste of the pudding is in the eating. How much of this is fed back into those who most need it?

Thank you, Madam President, for allowing me these moments.

**Sen. Dana Seetahal:** Madam President, my colleague who just spoke raised one issue which I thought was—well one question. He asked two questions really. Who will benefit from this piece of legislation, and the corollary to that, he suggested that this was a significant piece of legislation.

With respect to the last one, I want to say that I entirely agree that it is significant because finally it will do away with that Supervisor of Insurance that has been an inactive body, as far as I am concerned, in Trinidad and Tobago for years past. I have heard too many complaints in the legal profession, Madam President, as to what I consider the failure of that institution.

Well, let me just say first of all, as you would know, Madam President, there is legislation that anyone who has a vehicle must have that vehicle insured. So we have to have vehicular insurance. We have life insurance. We must have life insurance if we are buying a property. We have medical insurance. Insurance of one's house contents—I cannot enumerate all—and the Insurance Act, by virtue of having these companies that provide these insurances registered under that Act, controls the operation, as it were, of the insurance business in this country.

The Supervisor of Insurance has certain powers and one of them is to act as an arbitrator to disputes between companies and policyholders. Well, I would have liked to have seen in this last report which is about six years outstanding—we have not had any report since 1998—what arbitration that Supervisor did.

It would seem to me that she, or he, may have done none, because of the number of matters that are going to court, Madam President, and there are certain insurance companies, I could call one name: Capital. That is one that went to the Privy Council. That is a notorious company. It seems that just as a matter of principle, some legal counsel admit this, they refuse to pay! One could just knock down somebody, have no insurance, be totally wrong but just do not admit liability. Because it is the cheapest, many maxi-taxi drivers are insured with that company.

People could die before they get payment from some companies. Everyone will recall the case of Mr. Matadeen. He had his matter; he got judgment; he waited; they tried to bring the matter before the court; he fasted; he nearly died before he fasted; and eventually he died from what some may determine a natural death, but I would think it was out of heartbreak. I personally, and I know a lot of people will agree with me, put that to the inaction of the supervisor. I would not want to put the blame on one person for a death but that must have contributed in some way.

If one knows one has some kind of control body that could take action against such insurance companies, then one would feel as a citizen if one brought one's matter to court, one would have some recourse, some fairness, something would be done about it. But nothing! People know that these people, just as a matter of course, will not pay, it takes years. In civil matters it takes six or seven years, and Mr. Matadeen's case, I think it was over 10 years, and nothing could be done.

So one just abandons one's claim and the companies could laugh at the Motor Vehicles and Insurance Act, third party risk, and say "Ha, ha. I am not paying." because they could avoid payment or seek to avoid payment by saying there is a clause there that says they should not give somebody under two years experience to drive. That ought not to be a way to avoid claiming, because one has an Act that says when one has third party risk, whatever particular clauses the company imposes, it ought not to impact to the detriment of the person, the third party, but who cares about that? Certainly not some of these insurance companies.

I have heard of President, B&L, all of the so-called cheap insurance companies. I personally know and I have heard enough about the Supervisor of

Insurance being totally inactive, not doing anything about complaints. There have been many complaints against these insurance companies and nothing has happened. If the Supervisor of Insurance approves insurance companies, the Supervisor of Insurance, we know, could refuse to approve them and then it should follow he could withdraw approval.

We have heard enough times of withdrawal of approval. I have not looked in the Act to see that specific power, but one goes with the other. But nothing is done! What is the point of having a Supervisor of Insurance? It is laughable. It has been laughable, and the whole legal profession knows it is a waste of time, and I venture to say that all of the insurance companies know they could avoid it.

It is about time we got rid of that body, and I think we should call upon whoever is the Supervisor of Insurance to account for what is happening. Why have we not got any reports? According to section 7 of the Act, it says within three months of the 31st of the year, one shall lay a report in Parliament. "Shall" means nothing. We spend time arguing may or shall and liability, for what? Unless one could take some action against this body, it means nothing. Maybe we could go for judicial review. I have an interest. Why have they not laid this report? People do not have money to just take this as a matter of public interest under the new judicial review action. One can take it if one has some kind of general interest, but that could be a way to go.

We have the arbitration provision, and then we have the registration of companies. So, it is time, as soon as possible, we get rid of that individual and we would be transferring it to the Central Bank and we will have an Inspector of Insurance, and I have heard someone is earmarked for that. If that person is the person I have heard, I think that person will do a very good job and be active. Then soon we will have these insurance companies, hopefully, by their ears, and they will be able to call them to account for the nonsense they have been doing and the way they have been treating the citizens of this country with contempt.

I personally pay thousands of dollars in insurance every month, not because I want to, but because I have to. Many people do it because they have to. They say I have to pay \$10,000 for my car. I know it will be a hassle if I have to claim because of all of these things I mentioned but that is what the law says, so I have to do it. That is what we do, and it should not be, so until we can get, now hopefully, something to work with and we can have respect for the law, and those insurance companies will have respect for the law.

It is another kind of criminality when there are companies doing that kind of thing. They can cause people to engage in crime because they cannot get their

money. They can say, “Well, to he—” I have no respect. I was going to use a word like “hell” but I know it is unparliamentary language—with the law and if the law is not doing anything about these people, “Well let me go and steal and rob.” We have to put a stop to that now.

Thank you very much, Madam President.

**Sen. Dr. Tim Gopeesingh:** Madam President, what this Bill seeks to do in essence is to abolish the post of the Supervisor of Insurance and the Inspector of Bank positions at the Central Bank and to establish now a post of Inspector of Financial Institutions. In doing so, is the hon. Minister in the Ministry of Finance contending that this Bill is an attempt on the part of the Government to strengthen the supervisory arm of the banking and financial sectors?

The Bill before us, I would like to proffer, is a knee-jerk reaction and a minor attempt at building financial soundness in the country. Merely changing the locus of authority is a simple decision, but what is really more important is setting up legislative changes—not talk, but setting up the legislative changes to encourage best practice policy.

There are many areas in which this can be done. I think the hon. Minister alluded to some, but we need action. For example, the amendment of the Insurance Act, and the hon. Minister said that he was not interfering with that as yet. I wonder why. So, one is going to take the old Insurance Act which exists at the moment, with all its loopholes that allow fiscal supervision to be a problem in the country, put it in the Central Bank without changing the Insurance Act and expect the Central Bank to perform better and the financial sector to improve. They just cannot do that. I hope you are trying to change it, hon. Minister.

**Sen. Enill:** That statement is not true.

**Sen. Dr. T. Gopeesingh:** All right. If the hon. Minister had said this was step one and he was coming with some time frame and major measures to deal with steps two and three, I will accept that, and I hope that is so.

**Sen. Enill:** I did say that.

**Sen. Dr. T. Gopeesingh:** Okay. Madam President, I am happy to hear about the Green Paper and the White Paper that the hon. Minister alluded to. It is like a white paper and a green paper on education. I remember in 1994 I took part in some consultations on the education sector on the Green Paper in Education. There were about 200 consultations with major players in the education system, and the White Paper was produced.

The PNM administration came to an end in 1995 and we took over, and it took us a number of years to effect and implement the areas on the White Paper in Education. It still needs to be continued with some degree of alacrity, but obviously there are difficulties. I would just like to caution the hon. Minister that even though there is a white paper on the financial sector, he has to move critically fast and pursue urgency in the implementation of these regulatory framework proposals.

Remember, very little has been done in the last two and a half years in the financial sector, despite the fact that there are three Ministers in the Ministry of Finance. Do we have more Ministers than technical people in the Central Bank?

**Sen. Enill:** Four.

**Sen. Dr. T. Gopeesingh:** In fact, I want to quote a recent commentary by the multilateral agency, the International Monetary Fund, which made reference to the urgency of these matters. The report from that multilateral institution says:

“The banking system appears to be sound, but early action is required to strengthen the position of the non-bank financial sector which remains less effectively regulated.”

This is what our hon. Senator has alluded to in some of the deficiencies and weaknesses that we have in the non-banking sector which create major problems for the ordinary citizen in this country.

Madam President, I would like to, just through you, remind the hon. Minister of the financial crises that took place between the 1980s to early 21<sup>st</sup> Century around the world. We had the Mexican crisis in 1984/85. We all know about that. The United States had to pump billions of dollars to try to bring back the Mexican economy, and up to today, they are still suffering and they had to come in with Nafta and the United States had to help Mexico to become a partner in the trading arrangement in the Western hemisphere.

Then we had the Asian crisis in 1988/89. Then we had the Latin American crises in mid-1990s and the early 21<sup>st</sup> Century, as early as 2001. There are striking similarities in all these crises occurring around the world. This era of globalization and financial liberalization, we are not exempt, and I hope the hon. Minister knows that Trinidad and Tobago is not exempt from the globalization and liberalization process that is taking place in the financial sector around the world.

Why have these big economies failed and gone into crises? Financial crisis, banking crisis, currency crisis. Although Latin America and Argentina had



adopted strong macro-economic fundamental principles and policies, in the early 1990s, they still went into economic ruin and are still fighting to come back up.

In Asia, the real problem there, even though they had a fixed currency, I am drawing this analogy because we have a big windfall in Trinidad and Tobago. We have a great amount of money in the oil sector and gas sector and, as Sen. Mark alluded, we may have probably the equivalent of \$2 billion surplus because of the increase in the price of oil, and we know we are getting more gas.

The Asian people were booming. We had Indonesia, Thailand, Philippines, Malaysia and South Korea. These are the countries that were affected and there was a contagious effect. It spread like wildfire throughout Asia when one country began to experience a financial crisis. What happened then? They had a fixed currency. They were getting a lot of foreign direct investment, large capital flows, but the important thing was that their financial institutional structure and their financial institutional architecture were very deficient to meet the growing demands of the large capital flows and the velocity of the capital flows across to these countries from foreign direct investment.

We had investors moving away from countries which had low interest rates and trying to seek better interest rates in Asia, and they went and invested, but their investment was short-term portfolio investments. These Asian countries had no regulatory frameworks and no financial frameworks to offset the massive movement of the short-term capital and the movement out, and there was a direct flight of capital precipitated by speculation and these Asian economies fell.

We must be very much aware of this in a small country like ours, Madam President, and I give this advice to the hon. Minister and the Ministers in the Ministry of Finance. We are in a globalized society, and I would just like to quote to you a book by UNECLAC, some figures on what I talk about the foreign direct investment in Trinidad and Tobago. It is *The Impact of Foreign Direct Investment on Patterns of Specialization in the Caribbean*, UNECLAC, 2003.

|      |                     |                  |
|------|---------------------|------------------|
| 1995 | Trinidad and Tobago | US \$295,000,000 |
| 1996 | Trinidad and Tobago | US \$356,000,000 |
| 1997 | Trinidad and Tobago | US \$999,000,000 |
| 1998 | Trinidad and Tobago | US \$731,000,000 |
| 1999 | Trinidad and Tobago | US \$643,000,000 |
| 2000 | Trinidad and Tobago | US \$679,000,000 |

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

Almost US \$4 billion, Mr. Vice-President, coming through Trinidad and Tobago in a five-year period, 1995—2000, while the UNC was in administration, and almost \$15 billion flowing through the Caribbean with the Dominican Republic getting a substantial amount of that money.

The point I am trying to make here is that we have foreign direct investment coming, but we look at the sectoral distribution of the inward foreign direct investment for Trinidad and Tobago. Fifty-eight per cent went only to the primary sector and only 11 per cent in the tertiary sector. It means then that we are not strengthening our tertiary sector for development, even though we have all this amount of foreign direct investment, and we need to control that. We are a developing country. We are good financially.

It would be important to direct those investors from abroad to let them know in what area we want them to have the foreign direct investment. If we look at direct investment capital in the private sector enterprises by sector of activity, where does it go in 1995—2000? Petroleum industries, \$266 million in 1995. That is US. In 1998, US \$599 million—TT \$2,613,000,000. Almost 90 to 95 per cent of the foreign direct investment in one area of oil and gas.

This brings me to the point, Mr. Vice-President, through you, to ask the Minister of Finance to take this into serious consideration. I was speaking earlier on about the Latin American crisis in Argentina. Argentina had established strong macroeconomic fundamentals in the early 1990s but they had a high debt service ratio, foreign debt. A debt service is the amount of money, the amortization of one's interest over one's foreign exchange earnings from services and trade, and our debt service ratio is very high.

One may say that by international standards it is not very high, but things can change dramatically and our debt service ratio can be very precipitous and we may experience some difficulties at some time so one has to guard against that. This comes to the point I am trying to bring home, that there is urgent need for some strong macroeconomic fundamental policies, number one, and two, some strong financial regulatory frameworks to be implemented as urgently as possible.

The multilateral agencies of the World Bank and International Monetary Fund lend money every day and they were caught napping in the Asian crisis. They were unaware of what was happening because they were not paying attention to the fundamentals of macroeconomic policy for these countries and they learned

their lesson, because these Asian countries had to be given a lot of money to come back up. I hope we learn our lesson, because the lessons are similar throughout the world when we deal with finance.

How do we predict that a possible crisis can come on? There are certain macroeconomic indicators that will help us determine whether we are going to have a banking crisis or a financial crisis. This is what the multilateral agencies are now seeking to do and asking countries, and I am sure they will be asking Trinidad and Tobago, through you, Mr. Vice-President, the hon. Minister, at any time.

They do not need to go to the hon. Minister to ask about any information. They can go to the man on the street, they can go to the private sector now, they could go to anyone in the country and get the information now, but prior to this, they had to go to the Central Bank and the Minister of Finance.

This is how the multilateral agencies are operating now because of the globalization process and the financial liberalization around the world. We are not exempt from it, but here it is on one hand we are closing our doors to information in the Central Bank—and Sen. Wade Mark spoke about it a while ago—but we must be critically aware of these indicators to give us warning signs of an impending crisis. Whoever is helping them in the Ministry of Finance, and whoever is taking over the job of Supervisor of Financial Institutions must be critically aware of it. Present persistent high inflation.

It is very sad that the hon. Prime Minister had indicated that sometime ago in the past he announced, and I will quote:

“Inflation continues to be the biggest problem that the Government faces as we accelerate the rate of the country's development.”

But inflation is something that good economists and a good Minister of Finance and a good Central Bank Governor and a good administration can control. One can control inflation by sound macroeconomic fundamentals; interest rate, exchange rate, and so forth. If there is a dirty floating that we have in Trinidad and Tobago, one can manage that by monetary policies and therefore one could prevent inflation.

In today's world of non-inflationary growth there are numerous examples of countries now, or economies undergoing long expansions of economic growth while enjoying virtual price stability. So the price can remain the same, and yet still, we have economic growth. It needs strong commitment, Mr. Vice-President, of monetary policies to price stability.

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I am sad to say that we are not witnessing the efficiency and effectiveness of the Central Bank in effecting strong monetary policies. We know our fiscal policies are weak because we have expenditure in a number of areas that are not creating sustainable development and we do not need to speak about that ad infinitum in the Senate here and outside. We know what their weaknesses are, their handouts, and so forth. We do not need that. The fiscal policies are bad. There is weakness in the control of monetary policies by the Central Bank and, therefore, we can have a precipitous fall in our economy despite the buoyancy that exists now and despite the windfall that we are having.

We must not try to create scapegoats in the labour and business sectors and say that in the labour sector the wages are increasing, therefore we have high inflation, and the business sector is striving, therefore, it is creating an inflationary process. Today, we have State-led economic growth. We are not having any private sector economic growth. Although credit is at a low interest rate, the credit is not being utilized.

We have high liquidity in the financial system. But the credit is not being utilized by the business sector. Why? I do not think I need to give them the answer. They know the answer. The answer is crime. The answer is that the business sector does not want to increase because they are sending their children away because their children are being murdered! This is why the business sector is at a standstill.

No businessman in Trinidad and Tobago will tell you that they want to increase their business. There is one member of the Arab community who spends \$5 million in protecting his family. One member of the Arab community spends \$5 million protecting his immediate family, and there are about \$30 million to \$40 million being spent in this country by people who have to try to protect their families.

Where are we going economically? We can talk as much as we want of a Supervisor of Financial Institutions, the financial institutions will crumble if we do not have economic growth and the economic growth will not occur if we have crime, kidnapping and murders almost every day. [*Desk thumping*] It must be stopped. If the Government is impotent to stop it, let us be the alternative government and form the government. [*Desk thumping*] We have the capacity and the ability to run this country as it could be run because of our performance in 1995—2001.

**Sen. Dumas:** With a criminal as your leader.

**Sen. Dr. T. Gopeesingh:** You all will say that. That is how you all prosper and thrive, to mash up people's reputation that they seek to protect for years. That is all this Government is good to do. Political harassment and persecution.

**Sen. Dumas:** Deal with the reality.

**Sen. Dr. T. Gopeesingh:** This is the reality of this Government today. Whether they want to accept it or not, it is a fact. It pervades our society. There is no separation of powers between the DPP's office, the Attorney General's Office, the Parliament and the Judiciary. I know the Attorney General will get up and say, but he is the one—

**Sen. Jeremie:** On a point of order, the Senator is imputing improper motives. My friend, Sen. Dr. Gopeesingh is imputing improper motives to the Attorney General. There is, in fact—the Constitution recognizes a clear separation of powers between the Director of Public Prosecutions, the Attorney General, and I think he was about to mention the Chief Justice, or the Judiciary.

**Mr. Vice-President:** Sen. Dr. Gopeesingh, would you please come back to the Bill we are debating?

**Sen. Dr. T. Gopeesingh:** Mr. Vice-President, the question is, I was alluding to the fact that there are separation of powers that dictate in the Constitution of Trinidad and Tobago, the financial legislation is affected by non-separation of powers and interference. If the hon. Attorney General indicates that he is confident that there is separation of powers, I will be very happy about that, but the perception, it is that that does not exist.

**Sen. Mark:** Perception is sometimes reality.

**Sen. Jeremie:** On a point of order, Standing Order 35(5), the Senator is imputing again, in an indirect way, improper motives. The point is that there is, in actuality, a clear separation of powers. There is, in fact, a clear separation of powers, not only in the Constitution but, in fact, in how the institutions operate. There is a clear separation of powers, and to suggest otherwise is to impute improper motives to the Attorney General who is here, the Chief Justice who is not here, and the Director of Public Prosecutions who is not here.

**Mr. Vice-President:** Sen. Dr. Gopeesingh, I advise, would you please concentrate on the Bill we have at hand and try not to make those kinds of references, please?

**Sen. Dr. T. Gopeesingh:** Thank you very much, Mr. Vice-President. I move on. I think the point is made and I move on. The hon. Minister in the Ministry of Finance must realize, as my worthy Sen. Dana Seetahal indicated a while ago, that there are tremendous injustices in the financial system, and particularly, in the insurance system.

There are delayed settlements in life and health insurances, motor vehicle settlements, property settlements and sometimes no settlements at all. We know the insurance companies that are very guilty of it. Poor people are unable to access the justice that they deserve to be given in terms of seeking alleviation from the distress when they get into accidents, when their loved one dies or becomes ill, or even when they make basic claims for health insurance policies.

Recently, I had to basically threaten an insurance company that if they do not settle the claim for a patient who had cancer and who had to seek intervention abroad to have radiation given in a—proper radiation, not the cobalt radiation that we give in Trinidad and Tobago, because that burns the bowels and the bladder—and the insurance company says that it is available here, and it is not available for even a dog. I would not even send my dog for radiation in Trinidad.

This person had to go abroad for radiation. The insurance company, hon. Minister, through you, Mr. Vice-President, decided not to settle this claim and, therefore, the person would have to seek some legal mechanism for it, and the legal mechanism would take a long time with inordinate delays and no satisfaction in the end.

What I would like to say then is bring about the legislation as quickly as possible, and if the legislation is good, we will support it. Support it in terms of making sure that the poor person will get the type of satisfaction that they need, and they do not have to go through all these expensive ways of seeking redress for what has been done to them in an unkind way by not making sure that their settlements are taken care of. There are many insurance companies that do not even bother to think about settling, so where are we going?

The other point I want to make about this, Mr. Vice-President, there are insurance companies now with acquisitions, mergers and takeovers. We saw Nemwil, Caribbean Home, with Guardian Home. One large corporation with interlocking directorates now, that have been existing from since the 1980s and 1990s. We are seeing it continuing and growing in perplexity. Interlocking directorates. Two people controlling the heights of the economy in the private sector and the heights of the insurance business and dictating the pace of the

insurance industry without any redress by the State and without the State being able to do anything to affect the high velocity and the flow of the negative things that these insurance companies are doing.

You know what they do as well? Look at the monopolies. I am just talking about the monopolies in the cable company. That is just a little example. We have monopolies in the insurance industry. We know about the monopoly in TSTT, but there is massive nepotism. They decide in the health sector, in the health and life business, which doctors must form the quorum, the preferred list of doctors who the patients must go to. Where on earth must that be morally right? That because they control the insurance industry, they tell people which doctor to go to?

It happens in the legal profession as well. All the lawyers here in Trinidad—and I am sure the Attorney General himself knows that it exists in the legal system. You know what is happening? We have the large firms in Trinidad and Tobago—I am not speaking about Alexander, Jeremie & Company. I am speaking about de la Bastide & Jacelon; I am speaking about Morgan, Fitzpatrick and Furness-Smith and the other one. Fitzwilliams, Stone, and so forth.

It is a group of legal companies which command and tell the people who go for loans—you know that, hon. Minister—tell the banks go to JD Sellier, go to Fitzpatrick and Hamel-Smith, and so forth, and these are the companies that get the work all the time and there are 200 or 300 young attorneys who are graduating on a yearly basis. So, they tell these young attorneys, “To hell with you!” Sorry about that word. You either join these companies or you starve. You cannot survive. Or join the State where the State salary is not really of any significance.

The point here is, we have a system that pervades where we have insurance companies coming together as one massive group of companies, commanding the insurance industry and being dictatorial in their approach to telling people where they go for loans, which lawyer to go to, who will draft up their deeds, and so forth. It is morally wrong, unfair, and through you, Mr. Vice-President, I would like to appeal to the hon. Minister that this thing stops immediately. There must be some mechanism. I am sure all of you, all of us, have been through this. Fortunately, my wife is an attorney and even she cannot tell the lawyers that she is preparing the deeds. Imagine that.

The next point I want to make is the question of the insurance market penetration. Hon. Minister, you will be aware that there are a number of insurance companies within the Caribbean, regionally and internationally, that may want to come into Trinidad and do business, and they have already started. They may

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have mergers and takeovers, but we do not know how the information is going to be shared by that company which might be operating in the United Kingdom, North America, Canada or one of the Caribbean countries.

**7.30 p.m.**

Mr. Vice-President, what mechanism do we have for sharing and obtaining that information about these companies coming from abroad and doing business in Trinidad and Tobago? Something has to be done as quickly as possible.  
[*Interruption*]

[MADAM PRESIDENT *in the Chair*]

Madam President, I made the point about high velocity flow of short-term capital. We have to be very cautious about that because it could create high liquidity. Liquidity creates inflation, increases wages and salaries and there is increased demand, consumerism and import prices affecting balance of payments. When there is inflation, there is decreased competitiveness, the price of your goods becomes less, and therefore, your balance of payments and foreign reserves worsen. One has to be very careful about the high velocity flows of short-term capital coming through your country. It is going to occur.

Your stock market is already saturated. This is where the stock market is extremely buoyant, because the amount of stock on the stock market is so small and there is high liquidity, people are just naturally inflating the stock market, but there is going to be a burst in the bubble at some time and people are going to lose a lot of money, if one is not careful. This is where the legal and regulatory framework need to take place. I know you have the Securities and Exchange Commission looking at the stock market, but we need to have a commission looking after the financial sector.

Madam President, it is now necessary to make major changes in the Financial Institutions Act; it is imperative Mr. Minister. What bothers me is that time is passing and no substantial changes are taking place in these areas, even within the last two and a half years. In his presentation the Minister said—it might not be a direct quote—that all legal proceedings commenced prior to the coming into operation of this Bill or against the Supervisor of Insurance should have the same effect as if done by the Central Bank.

I wonder whether the hon. Minister would enlighten the Senate further to what Sen. Seetahal asked, as to the status of legal proceedings that are commenced against the Supervisor of Insurance, so that we can see what the Central Bank



would be inheriting to be able to perform its function. We know the person being asked to perform this function. I know her personally and I know that she is quite capable and competent to do this; she is sitting with us here. A complete statement on the performance of the Supervisor of Insurance and the legal proceedings undertaken are a sore point in the country today.

We are well aware that there are many legal proceedings against insurance companies, but because of the slowness of the court operations insurance companies use that as a means to prolong decision-making and the citizens have no recourse. This is a very, very important issue, through you, Madam President, to the hon. Minister and the Ministers in the Ministry of Finance.

I will touch on the point of transparency; I will not be long again. The key issue today is transparency in the performance of monetary policy. If it is an attempt to ensure that the Central Bank goes away from the Freedom of Information Act, it is a sad day. Do you know why? International multilateral agencies and financial institutions are now asking First World countries to open up their accountability and transparency, as far as their banking system is concerned; this is part of the financial liberalization taking place in the globalized arena. Banks have to open up their accounts. The multilateral agencies can come and ask anybody in the country: What is the performance of your country? And they can get economic indicators to find out how your country is doing.

On the one hand the worldwide globalized economic environment is telling us to be transparent, be open, and in Trinidad and Tobago our Government is telling us, "Close up the Central Bank to information". What a total mess. Where are we going? We say that we want to go 2020 First World, is that a direction to 2020 hon. Minister? That is a retrograde step and we must be open about it. I want to be critical on that issue. You must remove that; let us see what the Central Bank is doing. Let us see the transparency; let them produce their accounts; let them show us their macroeconomic policies. Let the State show its fiscal policies, which we will debate in Parliament on the budget speech, and we will move on.

Are we going to continue to make banking a secret? Are we going to create secrecy in the Central Bank? The move was really to open up the Central Bank so that the society at large would understand the working of monetary policy, to see how it interacts with the different policies at work. Therefore, this issue of the independence and accountability of the Central Bank is very important. What is the Government's position on that? Does it view the Central Bank as an arm of the Ministry of Finance? Does the Central Bank have an independent autonomy in the discharge of its monetary policy? I hope so, Sen. Dr. Saith.

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If the Central Bank has to be autonomous, it has to be accountable to the people. The only way it can be accountable to the people is if the information is available. So how are we going to deal with this accountability? For some time now we have been talking about creating a parliamentary subcommittee. I hope my colleagues here would press for a parliamentary subcommittee to which the Central Bank can be made accountable; we should ensure that. As Sen. Mark indicated there is about \$50 billion in circulation in the insurance and pension industry; that is a lot of money for the Central Bank to play around with and not be accountable to anyone. Is the Central Bank Governor God, master of all I survey? Is he not accountable to anyone? The Prime Minister and the President are accountable, so we must make the Central Bank accountable. Rather than that, we introduce restriction of information flows not to improve it.

Sen. Mark spoke at length, basically, on the pension plan. We know that the national insurance system is not functioning as it should. For a number of years the Chairman, Mr. Claude Musaib Ali, tried to do a lot of work in the national insurance system and he found difficulty; he had not been able to implement the proposals he wanted to. We know there was a high administrative cost of 29 per cent at one time in that system. Thank God this has gone down to less than 10 per cent.

The world economists are telling us that throughout the world people are living longer and, therefore, the percentage of the population that is living within the age of being retired and in need of pension has been increasing considerably. We have a good life expectancy for men in Trinidad and Tobago of about 76 years and for women 79 years. The women always live longer; we take better care of the women than they take care of us. [*Laughter*] It is a nice phenomenon. I always hope that my wife will outlive me and take care of me in my death; I know it is being selfish, but—

I like the part in today's *Guardian* where Sen. Enill spoke about regional pension plans being in trouble. It reads:

“Regional pension plans in trouble—Enill

Even though a large percentage of the workforce is covered by several pension plans, many are incapable of adequately providing for their retirement needs.

Minister in the Ministry of Finance Conrad Enill said out of a workforce of approximately 2.8 million in Caricom only 1.2 million contribute to the region's social security systems.”

Remember we have an English speaking population of nearly six million.

“Moreover, the rapid demographic changes taking place in the context of the unfunded public sector arrangements, are placing severe fiscal pressures on our medium-term expenditures and if left unaddressed the financing of benefits would become unsustainable,” Enill said.

He was speaking at the 15<sup>th</sup> meeting of the CARICOM Heads of Social Security...

The T&T Government has embarked on pension reform agenda.”

That is fine. We need that pension reform, but the world economists are telling you that you have to move with alacrity and purposefulness now. The only time you are going to receive the benefits of a pension plan you start now is 20 years down the line; it is long-term, so you have got to start now. Therefore, we ask the hon. Minister through his technocrats and his ministry to make sure that pension plan—

There are billions of dollars in the national insurance system and it is not being utilized properly for the benefit of the people of Trinidad and Tobago. It is an ad hoc arrangement. In fact, legislation before us deals with the integration of insurance, banking, pension and credit unions, but apart from banking, in all areas there have been flaws. The Minister said very little about pensions, as Sen. Mark indicated; pension reform should now become part of the financial package before us. Full portability and transferability of pension benefits is a must; harmonization of the national insurance scheme and the old age pension system is a must. The administration and integration of the national insurance system and the old age pension must come on, and the guaranteed level of income maintenance in the retirement and integrated regulatory framework for the pension industry must occur.

Let us, therefore, not fool ourselves into believing that we have started a process of improvement of our institutional structures; we have not even touched the tip of the iceberg. I have pointed out many gaps, and the technical work to resolve these issues needs to be done. The real problem now is to translate these issues into a legislative package so that the country can be better off. Do not just have it as a green paper or a white paper; bring it in the form of a legislative package and let us implement with rapidity.

I hope, hon. Minister, that you are up to that task. I hope that you are not involved in day-to-day fire fighting or in trying to resolve day-to-day issues. We

*Insurance (Amdt.) Bill*  
[SEN. DR. GOPEESINGH]

*Tuesday, May 18, 2004*

must look at the bigger picture. I hope we are not trying to put everything in 2020, which is 16 years away from now. By that time the country would have gone into serious economic decline, so you must have your short-term, medium term and your long-term plans.

In closing, I think the time has come for us to have Ministers of Finance who will talk about strategies for inflation control, which is not 7 per cent as the Prime Minister said; our reality is less than 3 per cent; the world reality of inflation is less than 2 per cent; who can talk about the reasons for pursuing a policy of wage increases without productivity increases. The trade union movement speaks about wage increase all the time, but they must talk about productivity issues as well.  
[*Interruption*]

**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:** Thank you, Madam President and Members of the Senate. Productivity—[*Laughter*] let us not talk about a 15 per cent increase in wages throughout the country and do not associate productivity with it. I ask the Government: When you speak about wage increase, speak about productivity. The Minister of Labour and Small and Micro Enterprise Development will have to take that into consideration. [*Crosstalk*] We must speak about competitiveness.

Do you know that the manufacturing sector has not increased its contribution to the gross domestic product of this country over the last 20 years? Although we say on a daily basis that the manufacturing sector is doing this and the private sector is doing that—I do not have the raw figures with me, but it could be checked—they have not increased their contribution to the GDP, but they would be the first ones to tell you, “Come and devalue your dollar so that we would become increasingly competitive in the external world.” So we need to talk about increasing the competitiveness.

We must use this opportunity to look carefully at public policy management in the country and see whether or not it fits the requirement of a modern state society. Let us, therefore, use this opportunity to look clinically at our management processes in public policy, macroeconomic policy, fiscal policies and, more specifically, to look at them in terms of the Insurance Act, the Financial

Institutions Act, the Banking Act and mutual funds legislation, pension reform, a possible financial ombudsman Act and all these different complements of a package that we could be proud that this Parliament would approve. Let us bring it together.

In closing, I urge my hon. colleague not to allow himself to be misled that he and his team are doing something so profound by changing the locus of authority for the performance of a public duty, because that is all we are doing here today. We support that change, but it is far too little and the Government has been there for two and a half years, a long time to get away with so little.

Thank you. [*Crosstalk*]

**Sen. Prof. Kenneth Ramchand:** Madam President, do not worry, I am talking for about five minutes.

For the record I want to ask a question and express a misgiving. Let me begin by saying that I agreed completely with Sen. Seetahal's strictures concerning the failure of the Supervisor of Insurance to perform. I have my own list of settlements delayed or denied by recalcitrant insurance companies, which would collaborate the statement.

I hope that proper arrangements would be made to enable the Central Bank to carry out, what from the debate, would be an enormous task. As Sen. Dr. Gopeesingh said, it is not just a simple matter of changing the locus; the whole operation has to be revised, deconstructed and reconstructed. I really do hope that proper arrangements can be made for the Central Bank to do that. But the question is: Is this the only possible solution? If the Office of the Supervisor of Insurance is not doing its work properly, could we not get it to do its work properly, why do we have to shift the locus to the Central Bank? If the Department of English is not doing its work properly, should we then move all the English courses to the Department of Philosophy?

I hope the Minister will explain why it is preferable to transfer the operations to the Central Bank rather than reconstitute that office.

And now for my misgiving: Before this debate I did not agree that the Central Bank should be exempt from the Freedom of Information Act. With the proposed enormous, complicated and sensitive additions to its functions, I am even more than ever convinced that it is quite wrong to exempt the Central Bank from the Freedom of Information Act. I would like the Government to reconsider that decision.

I thank you.

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):** Madam President, I thank all those who spoke on this Bill. Certainly I think that the contributions have been excellent.

Let me make a couple of opening points from Sen. Dr. Gopeesingh's contribution. I am not using his words here, but if I am wrong then he would let me know. In quoting from an International Monetary Fund (IMF) report he said that the banking sector is sound, well-managed, operating well. I heard him to say that. That came out from the multilaterals and the IMF, therefore, what we are seeking to do by this transfer is to leverage that expertise to deal with a similar result in an industry that we consider very important. I just wanted to make that basic connection with that speaker.

Proper arrangements for the Central Bank—Sen. Prof. Ramchand asked: Is this the only possible solution? Why could we not reconstruct the office of the Supervisor of Insurance? The current challenge, if you will, that we have in delivering services in Government, and I think I spoke about this sometime ago, is that if we wanted to employ a particular individual right now in the office of the Supervisor of Insurance, we would have to request the Director of Public Administration to send for us a list of people that he considers qualified to be interviewed. If we fast track that arrangement, we will get it within nine months. If we do not fast track it, if we walk through the system, put it in the newspaper and let everything happen, we could get it in four years.

One of the sad, sad, sad things about our system is this: When I got to the Ministry of Finance my Permanent Secretary told me, "Minister, in trying to plan for the future, I recognized that we needed some budget analysts, some people in the Budget Division, because that is a very important place, so I started the process; I was Budget Director then, and I am now the Permanent Secretary, four years later, we still have not been able to fill any of those positions." The system by which recruitment takes place—and Sen. Mark would know this—is constrained by agencies and organizations that we have set up that just do not work and, quite frankly, at this point in time, we need to find a solution to the delivery problem.

What is the purpose of this piece of legislation? The purpose is to remove the constraints inherent in what we are attempting to do, in the first instance, and to put it into an institution that does not have that bureaucratic process. For example, the Central Bank can, in fact, recruit people, negotiate salaries, put infrastructure in place and get on with the job. One of the other benefits the Central Bank brings

to this equation is that it has for a very long time been managing the banks in this country. They have a system where they go out and do supervision: they go and look at your premises, they do this and do that.

Our system was not that; we sat and waited on the reports and then we evaluated and did some stuff. Some of the criticisms I hear about the Supervisor of Insurance, while I understand the frustration, they really are as a consequence of the system by which we operate. I do not want to comment on the changes, because there is a doublespeak that takes place. When you talk about changing it you are, basically, going to have to interfere with some provisions in the Constitution that require collaboration and that, quite frankly, is not coming, therefore, that is not an option. [*Interruption*]

**Sen. Prof. Deosaran:** Thank you for giving way; I do not want to miss what I consider to be a vital opportunity. Are you saying in simplicity that the system of recruitment of the Public Service Commission has almost collapsed, in terms of the delays that you mentioned?

**Sen. The Hon. C. Enill:** Yes, yes, yes, yes, yes; recruitment, promotions, filling of vacancies. We do not even have the opportunity to advance a candidate whom we consider to be appropriately tooled and schooled for a position, because there is a view that if we do that, well, it is political interference, you have some agenda. Therefore, what happens is that the commission, in its wisdom, will get a file that says this individual came in four days before this one and, therefore, he is the boss. The individual who is appointed, in a lot of instances, does not want the work, because he “doh want to do this ting; he doh want to have to prepare no report; he doh want to account” and he does not, and you cannot do him anything, because the system does not work in that way. That is the reality.

I know what some parties do; they decide, “The way we are going to do it is to deal with a particular project, pour all the resources inside there and try to manage the thing through that.” Some parties decide that they would develop the institutional arrangements so that the thing has a life of its own. I am trying to fill 500 vacancies right now in the areas of finance that I have responsibility for. Let me make this point about having four ministers: There is a mess that we have to clean up. The responsibilities are as follows: There is a Minister that is responsible for State enterprises, because in that sector we are focusing on governance issues and issues at a certain level, because when we look at the IMF report it says to us that the State sector needs concentrated and dedicated effort. The way we have chosen to deal with that is to have a minister with responsibility for dealing with that.

Then there is the question of finance and the economy, which another Minister deals with. The third Minister has a specific responsibility for looking at future issues, so reforms. There is the issue of the Central Tenders Board reform. There is the issue of pension plan reform. There is the issue as you move towards Vision 2020 and the strategic management of the economy, how do you move from where you are now to where you want to be. There is also the question of procurement and the reconfiguration of the ministry to deliver; that is what that other Minister is working on. Quite frankly, at one point in time I heard that we had 11 ministers.

For example, when I look at England and most developed countries, they have a lot. But there is a difference between what ministers do. There are some ministers that say, "I will deal with what is on my desk and then they go home," but there are some ministers who, basically, say, "Hey, what we are going to do is to deal with the system in such a way that we can deliver results," and clearly whichever approach you use would require a different kind of result. Anyhow, that is not the issue. [*Crosstalk*]

In dealing with Sen. Prof. Ramchand's question on proper arrangements for the Central Bank because of the enormity of the task, yes. Why did we approach it this way? We looked at the industry. How is the industry reforming itself? The industry suddenly decided that we can organize ourselves in such a way that we can offer full services to the customer. Part of the difficulty we have, for example, is that the Central Bank Inspector of Banks cannot, will not and is not allowed to talk to the Supervisor of Insurance. We have a situation where under the law the Board of Inland Revenue is not allowed to talk to the Customs Department; they are just not allowed.

One of the ways to deal with what we found, in looking at the analysis of some of these companies, was to match what the market was doing in a regulatory environment so that you would have access on a conglomerate's insurance part of the business and the banking side of the business. Quite frankly, in the White Paper we are looking at now we are also looking at whether or not the Securities and Exchange Commission (SEC) should not fit itself somewhere inside there so that all these counsellors /regulators, I think that is the term we are looking at, could talk.

We know, for example, that there are some companies that would take one asset and pledge it to all kinds of different things, but there is no way in which the regulator looking at the activity would know that, because it is compartmentalized. Therefore, if we allow that to continue, the difficulty we have



is that one day the asset is going to disappear and too many people are going to get hurt in that process. [*Interruption*]

**Sen. Seepersad-Bachan:** I wanted to clarify that point, because I was not sure if it was your intention to merge the securities, banking and insurance. In fact, I have a report which says that the harmonization of regulations between securities and banking has been much easier, almost 80 per cent, than banking and insurance.

**Sen. The Hon. C. Enill:** There is no thought, at this point in time, to do that, simply because the securities piece of itself is not ready for anything. Sen. Dr. Gopeesingh talked about a lot of the issues with securities and exchange and we are trying to work on them right now. Basically, it has some of the same features of the Supervisor of Insurance, at this point in time. We are working now to deal with the management and regulation issues. We feel, though, based on the way our sector has been constructed, that it is an easier fit for insurance and banking, because of the holding company arrangements and the way large conglomerates have constructed themselves. We feel it is an easier fit for regulations with insurance and banking, and we would look at securities later on.

There is the notion of a regulatory council which will meet as a group. The securities and exchange piece and the Central Bank Governor would be part of that. So you would have the effect of looking at one piece although, at this point in time, it is not going to be part of the permanent legislation.

There has been a lot of discussion on the Central Bank and the Freedom of Information Act (FOI). The thinking behind that had to do with the First Citizens Bank, which is also exempt under the FOI. The thinking is: If you are regulating a sector which is exempt, clearly, the regulator should also be exempted. I hear all the concerns that have been expressed about transparency, but it is not to say that the Central Bank, at this point in time, does not have a reporting relationship with this Parliament. The Central Bank Act prescribes what should and should not happen and we, on an ongoing basis, bring to the Parliament the requirements of the Act.

We are quite sure that transparency in the operations of the Central Bank is absolutely critical for the operations of monetary policy and financial markets, but we also know that because of the nature of its business, the Central Bank Act, of itself, has secrecy provisions consistent with these transparency objectives. To say that the FOI is going to interfere with that—well, the bank, of itself, because the framers understood what was involved, has some elements of secrecy provisions. It has been tested, but it does have, as an institution. We would look at that again.

The important point here is: In all this, the independence of the Central Bank should be preserved. When you talk about putting people on the board, the Central Bank has a system and it is subscribed in law how it should occur. You have two deputy governors; you have somebody representing management, somebody representing law, somebody as a Permanent Secretary, Ministry of Finance, a member of the public, and somebody representing something, something, and something. [*Crosstalk*] From time to time these things happen and we just have to work through them. I do not think we should make that the big issue. To me the issue is: Is there something that we are not getting? Is there some information that we want that we are not having, besides how much money you spend on this or that thing?

Madam President, I have looked at some other jurisdictions, the United States and so on, and there seems to be conflicting models in terms of how one deals with this particular issue. This Government is not afraid. We talk about the transparency issue, but I think that we also have a responsibility to balance, which has to do with people's personal financial information. The consideration of the Central Bank and the FOI, had more to do with the exemption of the First Citizens Bank (FCB) than any other consideration. [*Interruption*]

**Sen. Seepersad-Bachan:** I thank the Minister again for giving way. Would it not have been easier for you to look at the confidentiality of personal banking information, for which the Freedom of Information Act also provides, that you could exempt those portions and not necessarily the whole institution, because we are talking about accountability and transparency policies and we would like to know those policies, whether it is for FCB or the Central Bank. Furthermore, through this new supervisor, you are asking for transparency and accountability from State enterprises and from other entities, they must reveal, in terms of their board directors, remunerations. The Central Bank would just be showing the way if it says, "Yes, I will also be open and accountable." I think it has to set the example.

**Sen. The Hon. C. Enill:** I do not disagree with anything you have said; they are my thoughts exactly. [*Interruption*] My colleagues can be persuaded; it is just a matter of putting it in perspective. [*Interruption*] I have no difficulty with that. It is under active consideration right now. Let not your heart be troubled; we are dealing with it.

Let me talk to Sen. Bro. Khan: Is centralization the way to go? The companies have been reorganizing themselves in such a way that it is difficult to

regulate simply because, and I made the point, the regulators do not talk to one another. We did a survey, an analysis and an industry profile; coming out of that configuration we felt that this was the way in which we would be able to understand what is happening and deal with it. That is how we arrived at this particular model. Is it the right way to go? I do not know, but it is the model based on the research we have done that suggests to us that this will have the best chance of success and that is really what we want to do.

Sen. Seetahal spoke about delinquent companies. You would notice we talked about the amendment in 20(5); that is different from what existed before. The amendment says that it will now be that the Central Bank can close in on you, you will have to go to court and the court will decide whether or not it would support you. The current law does not allow you to do that. In the current law, the supervisor could say whatever she wants, you can simply say that you are going to court, and then until that matter is dealt with you can continue writing business. The real issue here is to close them down. [*Interruption*]

You took action by indicating that you were going to do something about them and, basically, the law did not support it. The law said that if they decided they were going to appeal your decision, then they had to continue writing business and, of course, they had lawyers who they paid on an ongoing basis to do that. We are trying to close that. [*Interruption*]

Sen. Mark, control of the credit unions—the thinking is that right now there are two classifications of credit unions: there are the ones that could affect 130,000 persons and there are those that have \$10 under your house. The thinking is that those institutions doing other than their normal business and getting into high-risk products should have a different kind of supervision. The thinking behind it is that with products that have different levels of risk, you would need to have different kinds of reporting.

The intention really is to ensure that these organizations do not create a problem where you have too much of the society being exposed. At this point in time, insurance goes to the Central Bank and credit union supervision goes to finance. That is something we should look at again, because size is going to be an issue. There are some of the larger organizations that require all the skills that are currently available and some that you do not even have, because of the kinds of products they are getting into; we are going to be looking at that.

Pensions—The Government appointed a team as part of the pension reform exercise comprising most of the major stakeholders and we are trying to deal with

this very, very difficult issue. [*Interruption*] The question of the IMF report? No; what the IMF report asked us to do, we did not consider as something we wanted to do at all; a significant amount of drastic action there and, as we have said, whatever we are doing we need to do it within a particular kind of framework. In fact, we have resourced a local group to give them whatever they require in terms of consultants to solve this particular problem. I must tell you that this is a difficult problem. We would require the support, in particular, of the labour movement to solve this one. This is not one that we would solve on our own, but if we do not solve it, our future is going to have some issues with it.

It is further worsened by the HIV issue, which creates some more challenges for us in terms of building sustainable funding over the long-term; that is a serious issue and certainly one that we will be looking for some support on from other agencies. Apart from those issues that were very specific to the Insurance Act, the question of macroeconomic policy, Sen. Dr. Gopeesingh talked about some issues. In recognition of that, this year we have funded in a way to indicate the priorities. We have indicated that the priorities are education, health, housing, social services and national security. We have funded programmes on the basis of that hierarchy.

**Sen. Prof. Deosaran:** Now that you are winding up, I thank you kindly for giving way. There is another matter on the public mind, and I wonder whether I could take this opportunity to draw on your wisdom in this matter. The purpose of the insurance industry is to offer certain services, but I have evidence that there seems to be a back door cartel that fixes prices on some areas of insurance, fire and motor car insurance particularly. I want to know, Mr. Minister: Are there any precautions? I am not too sure if there is anything in the regulations, for understandable reasons. Is there anything in the offing, either through the new appointment of regulator or your Ministry, to contain this implicit cartel for which I have some evidence that does exist?

**Sen. Mark:** I want to ask the hon. Minister if he is aware of a report by a group called Laurie Savage and Associates and whether the Government has taken steps to effect some of those recommendations. I understand that there are some very serious recommendations.

**Sen. The Hon. C. Enill:** In terms of the first question: In my other life I used to be in that industry. We would sit and agree on certain things, then you would get back into the office and competitive pressures would take over and the guys would say, "Listen, I agreed to that, not you, so you go ahead and do it, and I do

not want to know about it.” There are some in the industry who would like to stamp out that kind of activity. However, where we are going to now would allow us to get the resources we need to make the cases.

In the current situation, that is not the case. We cannot get the human resources, the lawyers to build the case, so they were always ahead of us, in the context of regulating themselves and the activity. We are going to fix that, because there is no constraint by the Central Bank in going outside there and getting whoever you need to get, at whatever level, to fix those problems. I am aware of that.

The second issue is Laurie Savage. When we started to revisit with the stakeholders some of the commentary coming out of the Laurie Savage report, some of the industry players said that while the recommendations are good and they are based on capital ratios and a different system, the players in the industry would not respect that, because we have a superior system, in that, we have a statutory fund system where at the end of every year the Supervisor of Insurance, by law, holds the liabilities on your behalf. You can invest it, but it is held to the account of the supervisor.

The Laurie Savage report says, “No, what we will do is a different system, look at the capital ratios and at ensuring that the risk you are writing is in relation to the capital employed.” We also found that there was a flaw in the consultation process, in that, the players in the industry said that while they were spoken to, the final report did not reflect their concerns. So we felt that instead of simply moving forward with it, let us revisit it to see whether or not we could not strengthen the current provisions. There is a team working on that now and I think we can do that very quickly. While we are doing that, so we can fix the industry per se, let us move to the differently based supervisory structure, which requires a lot of other infrastructure work that we are doing now. So I am aware of the report; I am also aware of what is happening, but in discussing with the stakeholders there were concerns expressed which we are also addressing.

With those few words, Madam President, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

*Bill committed to a committee of the whole Senate.*

*Senate in committee.*

**Madam Chairman:** Hon. Senators, as you are aware there are 144 clauses in this Bill. I suggest that we do in it in blocks of 20s. Do I have your agreement on that?

**Hon. Senators:** Yes.

*Clauses 1 to 101 ordered to stand part of the Bill.*

*Clause 102.*

*Question proposed, That clause 102 stand part of the Bill.*

**Sen. Seepersad-Bachan:** Madam Chairman, I am seeing it in clause 102, but there were a couple other areas in the Bill where the Minister—it goes back to the Central Bank and then with the approval of the Minister, on the recommendation of—is it not that you are burdening— You have a supervisor now; before this the supervisor had to get the approval of the Minister, because he was reporting to the Minister. Now that you are within the Central Bank and it is supposed to be independent I would think that the Central Bank should be able to give the approval.

**Sen. Enill:** All this is doing is following the Financial Institutions Act (FIA). At this point in time, we are not trying to change anything; we are just trying to conform.

**Sen. Seepersad-Bachan:** Where you go to the Minister as well?

**Sen. Enill:** Yes, it is regulations, on the recommendations of the Central Bank.

**Sen. Seepersad-Bachan:** Do you not find that a bit bureaucratic?

**Sen. Enill:** It is, and it will be the subject of the additional review that we are looking at, because we have to review the FIA as well.

**Sen. Seepersad-Bachan:** I know that somewhere down the road the FIA—that would be removed, because the Central Bank itself—

**Sen. Enill:** We did not seek to change that, at this point in time. I am aware that some people think that it is so, but we tried to harmonize the provisions of the FIA in moving this across, so that wherever there were provisions that said, “The Minister may,” we added “on the recommendation of the Central Bank,” which is consistent with the FIA provision.

**Sen. Seepersad-Bachan:** I just find it is burdensome and bureaucratic.

**Sen. Enill:** It was raised downstairs as well and I said the same thing.

**Sen. Seepersad-Bachan:** One of the things you are doing in this transition period, not only are you going to be absorbing a lot of the weaknesses, but you are going to be slowing the process down a little more.

**Sen. Enill:** We have an agenda for bringing the larger pieces back to Parliament and we will do it inside here. [*Interruption*] The Freedom of Information Act, insurance, credit unions, we have a whole programme for it and we would want to take it there.

*Clause 102 ordered to stand part of the Bill*

*Clauses 103 to 144 ordered to stand a part of the Bill.*

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

*Senate resumed.*

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

#### ADJOURNMENT

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Madam President, I beg to move that the Senate be now adjourned to Tuesday, May 25, 2004, at 130 p.m. at which time we will be dealing with Private Members' Business.

**8.30 p.m.**

**Madam President:** Hon. Members, there are two matters—

**Sen. Dr. L. Saith:** Madam President, we have agreed that the matter with Sen. Baksh would not be raised. So it is Sen. Seetahal and Sen. Mark.

**Madam President:** Okay. So hon. Members, there are two matters to be raised on the motion for the adjournment of the Senate and we would go with Sen. Seetahal first.

#### Commission of Enquiry (Prison Conditions)

**Sen. Dana Seetahal:** Madam President, two weeks ago I raised the matter on the adjournment of the crisis in the prison service arising from conditions to which inmates are subjected and under which officers who keep them must function. So we are talking about the conditions in which inmates are kept or subjected and the conditions as well to which the officers are subjected.

At that time it was following much publicized reports in the media, beginning with April 20, of allegations of sexual abuse in prison: “Guards raping me”. That was on April 20. Then the 21<sup>st</sup>: “Minister meets with prison chief”. Then the same day: “Cops launch probe. No report of officers sexually abusing”. That was the prison boss. Then there was a report of a private complaint and consequent upon that there were interviews in the media in which the President of the Prison Officers Association was reported to have said: “Nah, nah nah, no homosexuality in prison”. I am just quoting him.

We also saw some articles in the media purporting to come from prisoners behind bars, as it were, who alleged all kinds of conditions in prison. Since then, it would seem that with drugs in the pouch and kidnapping, murder and arrests and soon-to-be arrests, this whole situation would have gone under, so to speak. I mean, it is no longer a thing that the media is following. You know how stories go; they are nine-day wonders.

Madam President, I seized the opportunity to bring this motion because in the last two budget debates I have made reference—and you might remember—to the conditions in prison and what I saw as the need for change, as I saw it, because of the fact that the prisons were more or less—at least in some people’s view, and in my view too, from my experience as a defence counsel—producing, as it were, graduate criminals. So it is my opinion that more than ever, because of the spate of violence in prison, we need to consider the conditions under which these prisoners are kept.

Why I say that, and I would just in a nutshell, as it were, give my basic four points here, is that we have had many decisions emanating locally and from the Privy Council, about the conditions in the prison. Thomas and Baptiste is just one, and there were allegations of the cruel and unusual punishment, it was said, where you had no lighting; all sorts of things. As a result, prisoners’ sentences of death were commuted. In one case it was recommended that a person be considered for release because of the terrible—according to the courts—prison conditions. One judge in Trinidad and Tobago found that the fact that you do not have lights in your cell or that the light was so dim, was cruel and unusual. A lot of people raised a lot of questions about that.

But the point is, we have had that; we have had issues about the fact that—you know that little motto that you see on the prison vehicle where they say: “To keep and treat”, and you see a little lock like this? That means what they are about: to keep and treat. And as a result, questions have arisen—not as a result of that but



because of the whole concept, of treating and keeping in the public's mind as to whether this actually happens. That is the second point.

Thirdly, we have to remember that this public institution of the prison is one where you have prison officers, or prison authorities having near total control over those whom they are charged to keep, unlike, say, the police. And the police are in the public eye; you see them there; you can go to the police station and so on. But you are talking about prison officers and they are virtually locked away. We all do not visit the prison on a regular basis so we do not know what is going on there.

That is a third phenomenon that has, in the international scene, given cause for concern. So you have these people kept away, and do we know what is happening because the complaints are all internal, and so on.

Fourthly, we have, of course, the fear that the whole system of the prison is producing criminals and producing violent criminals. So you have that versus the prison officers who—and I could speak from what I have heard from them personally—talk of the terrible conditions. In the state prison I go to the superintendent's office—and forgive me for using my personal experience, but there is no lawyer's place to go to. That was demolished a long time ago. So you go to the superintendent's office and it is low and there is "cellotex" falling down and there is a prisoner wearing his blue and he is trying to clean the desk. But what is the desk? It is all scarred; it is a metal thing; you have a little bench for the prisoner to come and he comes in shackles there, and then the whole place—there are about six prison officers shouting across because they have nowhere else to go. I am there, trying to talk to a client and trying to get some kind of privileged information and he is dropping his voice. Who can hear anything?

That is just one symptom of the prison conditions that the prison officers must undergo. You have many more. It is understaffed in the maximum security, for instance. You have water problems. You have a lot of different issues. So you are talking about a situation with the prisoners, on the one hand, who come out of there—you are looking at problems; you are talking about how they are kept, and on the other hand you are looking at the prison officers.

My whole submission, as it were, is that because of the perception internationally and locally, as to what is going on in our prisons—because of the problems we have—I think that it is very important that we clear these matters up and my submission at the end of all of this—and I just have a few points to make before I reach the end, really—is that we should have a commission of enquiry into the prison conditions.

It is not for my personal benefit to come here and have to broadcast all of this and say: “commission of enquiry”. People will say: What is going to happen? What is it going to achieve? But I have spoken to lawyers—people who are criminal practitioners and other lawyers—and they feel that this is something that we need to get cleared up. Are they raping people in prison? Is the prison producing criminals? What is happening there? Let it come out in the open. What about the prison officers? We have heard many times the current Minister say that they are doing a lot of things in the prison. Let us hear about the programmes at the Maximum Security Prison (MSP). Mr. Gulston, who is the President of the Prison Officers Association, in an interview—that is the “Nah, nah, nah” interview—said he wants a commission of enquiry because then it would be revealed the kind of conditions that prison officers suffer—for the record, this is April 25, 2004, he says that: “We operate under some very adverse conditions and these matters need to be brought out then we could have change. We, the prison officers, want an enquiry.”

That is the point. If you have the prison officers, you have the lawyers and you have—these are stakeholders—prisoners writing from the Maximum Security Prison alleging all kinds of abuse in prison—and I know that in one case it is very exaggerated because I personally know who that person is, but again we are dealing with a public perception. So you have the prisoners; some of them really have problems and some of them are using their status as being state witnesses in prison to do all kinds of things.

So you need, I think, to clear these matters up and I believe if we just have what has been advocated on April 21: “Minister speaks to Prison Chief”, and I heard that there was going to be an internal enquiry, what is that going to benefit us? What is an internal enquiry? By the way, I have not heard anything about the result. You know these internal enquiries are not important enough for the media to follow up afterwards and you have to struggle to get any kind of report. It has nothing to do with the Minister, but in terms of the public eye you need a response.

Having said that, I just need to say that the crime problem is reflected in what we have in the prison and what we have in the prison comes out and causes the crime problem. We have—and this is from some of the work from my colleague, Sen. Prof. Deosaran—a recidivism rate in the prison of 60 per cent, according to the report that was put out. We hear—and this was from a report from the then hon. Minister of Rehabilitation, Mr. Roberts—that 70 per cent of those tested in prison were positive for drug use. We have—and I read here from Camini

Maharaj's April 25, 2004 article: "An illiteracy rate of 70 per cent". And most of them are school dropouts. These are inmates in prison. And I know that from personal experience—not me being illiterate—but a lot of the prisoners that you speak to, you have to ask them, first of all—you are there taking a statement, getting information and then it hits you: "Can you read or write?" And the person would say: "A little", because they do not like to say: "I cannot read or write". Then you say, "Okay, read this", and they cannot read it. And a lot of these people are there in prison having given written confessions.

So that is another issue. So you are talking about the composition of the people. According to the article, 97 per cent of the prisoners come from poor homes. I am not saying poverty is an excuse, but some other person has said better than me that poverty could be hell. I think we need to examine these things. So the commission of enquiry would delve into these things, because while some research can be done, it is very difficult to get into the prison to do that research.

To his credit, the current Minister has arranged for some of the lawyers to find a way, go behind the doors of the prison. Of course, we started off with the best prison and that is the Maximum security prison, and that prison has programmes galore. I met some of the inmates who showed me their art and they are going for their CXC. I see people on the computer. They have a computer room, better than many schools.

The point is, these are also things that need to be revealed to the national community. Why hide your laurels and why must people only think that there are only bad things going on in prison? That is the point I am making. A commission of enquiry is not meant to lay blame. We need to find out what is going on.

Another point we can get from that same commission of enquiry is, you have a maximum security prison for 2,000 prisoners and only 800 prisoners are kept there. Yet you have Golden Grove Prison, a state prison, all of these have far in excess. My information is that the water system is not functioning; that they do not have enough prison officers to go there. I asked: Why could you not take some from the overcrowded prison? It does not work so, because you still have certain jobs that you must keep.

These are questions the public is asking. We need to know things like 35 per cent of the inmates—and I am not talking about people on remand. We have 3,900 persons in the prison right now and 3,240 are serving sentences or condemned to death. The others are there on remand. Of the people serving sentences, 35 per cent are for drug-related offences and Mr. Rougier, the Deputy

Commissioner, has said that 1,000 of those prisoners are young men between the ages of 18—25 for drug possession offences. In other countries they treat them. We jail them and when they come out they might hate the whole world and the nest—and I have seen previous convictions records: You start off with possession of one gram of cocaine and then you have robbery and you have other things, and you evolve into a criminal.

These are the reasons—I cannot go into them anymore; my time is up—and I say, through you, Madam President, we need to reveal almost all that goes on behind prison doors. We need to have a commission of enquiry to clear up the misapprehensions, the wrong perceptions; to get rid of them and to correct, if we can, what is going on there, for the benefit of all of us and to assist in, hopefully, resolving the terrible violent crime situation.

Thank you, Madam President.

**The Minister of National Security (Sen. The Hon. Martin Joseph):** Madam President, Members of this honourable Senate, as you are aware, at present there are seven institutions catering for adults convicted and remand persons, and one which caters for male offenders between the ages of 16—18.

As the Senator indicated, the total average daily population is some 3,953 inmates. Due to the consistently increasing inmate population, limited physical accommodation and outdated legislative framework and a lengthy judicial process, a severe level of overcrowding has developed, particularly in three of the seven institutions. This situation has impacted negatively on the physical infrastructure, security systems, health care and the implementation of constructive regimes at these facilities.

I wish to state that the Ministry of National Security acknowledges and is concerned about the conditions under which both the inmates and those in whose care they are entrusted, operate on a daily basis. While we note the severity of the situation, and consider it unsatisfactory, we are determined to ensure that it does not develop into a crisis, Sen. Seetahal's description, which we do not share.

As hon. Senators are aware, in 2002 government accepted the report of the Task Force on Prison Reform and Transformation which will function as a blueprint for reform in the Trinidad and Tobago Prisons Service. Among the key recommendations in that report is a paradigm shift from retributive to restorative philosophy of prison administration.

In implementing the recommendations of the report, the ministry is seeking, not only to prepare the inmate for a meaningful reintegration into society, but also to ensure the provision of an environment that would facilitate such a shift.

I would now like to take the opportunity to outline some of the initiatives being pursued by the Ministry to address this situation. As of May 03, 2004, 123 recruits were enlisted into the ranks of the prison service to undergo induction training. This staff increase will reduce by 70 per cent, the human resource deficit within the prison service. It will also address the imbalance that currently exists in the officer to inmate ratio, thereby affording a better level of care and supervision to the inmate population. Additionally, a committee within the ministry is assessing the staffing needs of the prison service to facilitate the new restorative justice thrust.

When one looks at the excesses of the established accommodation capability of our five main prisons, there is a total population in excess of 1,204. Presently, as the Senator indicated, the Maximum Security Prison, which is the largest and most technologically advanced prison facility in Trinidad and Tobago, is only utilizing 34 per cent of its full capacity of 2,453.

The ministry considers the full occupation of the Maximum Security Prison as the most critical factor in reducing the overcrowding situation, particularly at Port of Spain and Carrera prisons where the problem is most chronic. This would not only address the 1,204 excess, it would also allow for future accommodation of 406, during which time the entire criminal justice system would have been revisited, particularly within the context of the processing of sentencing.

In order to ensure that this occurs within the next five to six months, the ministry and the prison administration are vigorously addressing the problems which this Government inherited, as follows.

Works on the upgrade of the waste water treatment plant. The ministry is liaising with the Central Tenders Board for the awarding of a contract to complete this upgrade. Let me indicate that we have been trying to get the Central Tenders Board to move with haste and I am engaging the assistance of the Minister in the Ministry of Finance. This is a matter that has been with the Central Tenders Board for some time. They have given us the period of July 2004 to award the contract. We believe that is too long a period of time and we are going to see to what extent the improvement in the wastewater treatment plant represents the longest activity that needs to be done in order to increase the ability, to increase the number of inmates in that particular facility.

There are other things—I do not want to go into all the details. For example, there is the whole question about a fire alarm; there is the question about the uninterrupted power supply; there is the question of the electronics. I do not

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want to come here and talk about the problems associated with that facility, and those are problems that have been in existence for some time. But the capacity of that facility to take in more inmates represents what we can treat with in the shortest space of time. We are hoping that over three or four months for the earliest, six months for the latest, we will increase tremendously the ability to reduce the overcrowding situation in those prisons.

Not only that, the situation, as the Senator indicated, is chronic and we really need to reduce the overcrowding. I am at pains that there are other agencies that do not seem to understand the crisis—I say it is not a crisis, but for it to become a crisis—and as a result we are doing a whole host of things in that regard.

Sen. Seetahal spoke about all the other activities that are taking place that should be taking place in the prisons. I do not believe that a commission of enquiry is necessary for us to ensure that the population is made aware of the developments that are taking place. I take the Senator's point. I believe that we need to find another forum for which the question about some of the activities that are taking place will be brought to the attention of the population.

We are also concerned with the conditions of the prison officers. Again, if we reduce the overcrowding, then I am sure that, as we said earlier on, the ratio of prison officer to prisoners would also be reduced. Let me just say one other thing. In order to activate the Maximum Security Prison, there are some 765 additional prison officer positions that need to be filled. We have been in touch with the Public Service Commission and as a result we have also started to put things in place for the hiring of those 765 prison officers.

There are some other things that are taking place in the prison systems with respect to the training, with respect to the development of the officers, but, again, that can only take place, for example, in the women's prison and to some extent in the maximum prison. In the other places it is difficult because of the conditions under which the inmates live in order to really get them to take on the SEA programme and some of these other things, and CXC.

So that the focus really is on the Maximum Security Prison. That provides us with the quickest solution to easing the overcrowding and once we do that, all the other things are likely to fall into place. Like I said, while I am aware of what are some of the concerns raised by the Senator—these concerns must be addressed, but I do not believe that a commission of enquiry is the approach to be used.

I thank you very much, Madam President.

**La Brea Industrial Development Company  
(Status of Investigations)**

**Sen. Wade Mark:** Madam President, by letter dated May 09, 2002, Mr. Geoffery Henderson's predecessor, Mr. Mark Mohammed, Senior Counsel, now Judge of the High Court, instructed—virtually demanded—a criminal investigation into the LABIDCO fiasco. The instruction read as follows:

“I am of the view that a criminal investigation is warranted to determine whether, among other offences, offences of conspiracy to defraud and misbehaviour in public office, are revealed. I accordingly forward to the Commissioner of Police, documentation with my advice that a criminal investigation be conducted.”

Madam President, we wish to ask Mr. Geoffery Henderson, the Director of Public Prosecutions, and the Minister of National Security, about the status of this investigation ordered by the office of the DPP some two years and nine days later. What has the DPP and the police done about this matter to date, involving some top and senior persons occupying very sensitive and critical positions in offices in the present administration?

Some two years later, the United National Congress and, indeed, the public at large, are not even aware whether a high level criminal investigation into corruption by the present Government has even commenced. Our information is that volumes of evidence were seized from the Ministry of Energy and Energy Industries by PNM agents disguised as senior police officers in the fraud squad. It has been delayed and stalled to protect the PNM in the same way as the freeing of the Bajan fishermen issue.

We, in the UNC, wish to now ascertain the true position and we call on the Minister of National Security and the DPP by asking what steps, if any, they have taken to pursue this investigation demanded by the DPP office. Could Mr. Henderson, for instance, tell us how many letters he has written to the Commissioner of Police to demand action? Has he issued any public statement to explain why the police have disobeyed an instruction from the DPP? Has the DPP held any press conferences to highlight this matter?

Section 90 of the Constitution gives the DPP its independence. And what of the police service? Why is it blatantly protecting the PNM in such an outrageous manner? Why is it compromising its integrity and independence in this manner? The police service is not a PNM party group. Mr. Commissioner of Police, if you

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are listening, you are not a puppet or stooge of the Prime Minister and/or the PNM Government.

When one compares the speed and public manner in which police investigations were conducted into allegations of corruption against UNC officials with the inaction of the police on this LABIDCO investigation, the inescapable conclusion is that PNM elements in the senior ranks of the police service are protecting the party by not pursuing this matter. This is being done with the willing connivance of the Director of Public Prosecutions. Is the DPP a PNM card-carrying member?

**Madam President:** Hon. Senator, I really think that you need to be very careful about your accusations against the DPP. I do not think you should be saying what you are saying, please.

**Sen. W. Mark:** Madam President, it is incumbent upon the DPP to make a public statement on this matter. The office of the DPP depends on the efficient and independent police to conduct proper criminal investigations. The DPP cannot fulfil his constitutional responsibility to lay criminal charges without evidence from police investigations. The DPP cannot be faithful to his oath to fearlessly discharge his duties without fear or political favour unless he criticizes the police when they are protecting political corruption by the PNM.

Madam President, senior sources in the fraud squad have informed us that the Government has applied enough political pressure on its supporters and agents in the upper echelons of the police service to stifle this investigation. We ask the question: Why has the DPP or the Commissioner of Police not hired Mr. Bob Lindquist, or somebody resembling him, to assist in these investigations? Is Mr. Lindquist, with his bags of millions of TT dollars, a political tool that is used only to persecute UNC politicians?

I want to let you know, Madam President, that this fiasco called LABIDCO, destroyed the finest golf course in that part of the region and wasted over \$120 million on the failed La Brea Industrial Estate. An independent Cabinet-appointed committee comprising UWI lecturers, private sector representatives and ministry officials found that the Patrick Manning administration and its cohorts pursued this project for blatant political mileage and ignored geo-technical reports that predicted failure.

Let me share with you some of the findings of this investigating committee: One, the then Chairman, Ken Julien, of the National Gas Company, and the then



Prime Minister, the Hon. Patrick Manning, were apprised of the engineering and geotechnical and geological constraints associated with the development of the site. Nevertheless, Prof. Ken Julien advised that despite the technical constraints, the La Brea/Brighton site was the preferred site for the new industrial estate.

Madam President, there was no rigorous technical, social or economical justification for the La Brea/Brighton site as the optimum site for the proposed new industrial site. The Government chose the new industrial estate in the La Brea/Point Fortin constituencies rather than Point Lisas in the Couva South constituency. There was no structural decision-making process to support the conclusion to establish a new industrial estate for petroleum-based industries.

It goes on to say that the Cabinet of Trinidad and Tobago, under the hon. Prime Minister Patrick Manning, on December 07, 1994, in spite of all the advice given, took the decision to invest \$435.7 million in the La Brea/Brighton project.

The DPP ordered an investigation and the Prime Minister, in his attempt to disguise the corruption and waste, publicly admitted on the fifth day—

**Sen. Jeremie:** On a point of order—35(5). The Senator is imputing improper motives to the Prime Minister.

**Sen. W. Mark:** No. I am quoting from a date.

**Sen. Jeremie:** He is imputing improper motives to the Prime Minister. He is saying that the Prime Minister attempted to disguise something. That is improper motives.

**Madam President:** Did you say you were quoting something. From what?

**Sen. W. Mark:** It is in the *Guardian* of May 05, 2002. What the *Guardian* said—

**Madam President:** I cannot have two of you standing. What you just said, that the Prime Minister was quoted as saying—

**Sen. W. Mark:** In the *Guardian* of the 5<sup>th</sup> he sought to disguise the corruption that took place by stating that his administration had spent \$120 million on the estate and he was going to revisit this venture in the hope of establishing a vibrant petrochemical and plastic industry.

**Sen. Jeremie:** Madam President, a point of order—

**Sen. W. Mark:** I am not imputing improper motives!

**Madam President:** I doubt that you are saying the actual words in the *Guardian*. Are you quoting it?

**Sen. W. Mark:** Yes. I am just making reference to the *Guardian's* story.

**Madam President:** Are you quoting it?

**Sen. W. Mark:** No, not precisely.

**Madam President:** So therefore I would have to say that it sounds like you are imputing improper motives—

**Sen. W. Mark:** No, I am not imputing improper motives—

**Madam President:** —and therefore please do not use those words again.

**Sen. W. Mark:** Madam President, may I conclude my contribution?  
[*Crosstalk*]

**Madam President:** I upheld the fact that he is not to use those—

**Sen. Jeremie:** Will it be stricken from the record, Madam President?

**Sen. W. Mark:** Why?

**Sen. Jeremie:** If that is your ruling, it follows that it ought not to be in the record.

**Madam President:** No, I do not think it has to be stricken necessarily from the record. It is just that he is not to say it; that it was imputing improper motives and that goes down in the record.

**Sen. W. Mark:** Madam President, since May 2002 when the DPP advised and directed the Commissioner of Police to investigate this massive PNM corruption, we have had no leaks to the media from the police conducting this investigation. You know, Madam President, and I know, each day we read about the steps taken by the police when they were investigating the UNC, the PNM-friendly police leaked to the political media where they were going to search; what time they were going to search; who they were going to search. They carried television cameras at Carlos John's home and today, two years and nine days later, the Director of Public Prosecutions called on the police commissioner to conduct a criminal investigation and the Attorney General of this country has sat silently; he has done nothing about that matter. [*Desk thumping*] I want the Attorney General to take steps and deal with that matter. He should resign! Resign!

**Sen. Jeremie:** On a point of order. He is imputing motives to the Attorney General.

**Sen. W. Mark:** How am I imputing improper motives? I said you have not done anything. I am imputing improper motives? [*Crosstalk*]

**Madam President:** Senator, just continue, please. You have a minute and a half and that is a half a minute extra that I am giving you.

**Sen. W. Mark:** Thank you very much, Madam President. I am saying that the PNM is guilty of corruption and I am saying to the Attorney General that he should investigate this matter and I am calling on the Minister of National Security to bring this Parliament up to date on where those investigations have gone. Since May 09, 2002 the DPP directed the police commissioner to investigate this matter and two years and nine days later, the police has done nothing about this matter and the PNM has remained silent. They accuse the UNC of corruption, and when they are corrupt and they spend \$120 million of taxpayers' money, Ken Julien, the Prime Minister, Malcolm Jones—they are going to handle that matter. We call on the Minister of National Security to make a public declaration tonight as to what steps the Government is going to take to conclude these investigations through the police, and so on.

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

**The Minister of National Security (Sen. The Hon. Martin Joseph):** Madam President, with respect to the matter raised by the hon. Senator regarding the status of the investigation into the La Brea Industrial Development Company Project (LABIDCO), I am to inform this honourable Senate that investigations by the Commissioner of Police into this project commenced, as he said, in May 2002 on a directive from the Director of Public Prosecutions. These investigations are being conducted by members of the Anti-corruption Investigations Bureau of the Ministry of the Attorney General with the assistance of Mr. Robert Lindquist of City Gate Lindquist Incorporated.

To date, several interviews have been conducted and numerous documents of evidentiary value have been secured. A status report on the matter has been submitted to the Attorney General. In the interim, investigations are continuing apace. However, due to the complex nature of the matter, it is not possible for the Commissioner of Police at this time to provide a date by which the investigations would be completed.

I thank you.

**Sen. Mark:** Could the hon. Minister say, before he concludes, whether the Attorney General could tell us what is the status of the report that has been sent to

him? Madam President, through you, I ask the hon. Attorney General what is the status of the report that has been sent to him by the Minister of National Security.

**Madam President:** Do you want to answer that?

**Sen. Jeremie:** No.

**Sen. Mark:** Corrupt, boy! PNM corruption!

**Madam President:** Sen. Mark, I am on my feet. Hon. Senators, before I put the question, let me inform you that dinner has been ordered and is available downstairs. Maybe with full stomachs we might be a little happier.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 9.12 p.m.*