

Papers Laid

Tuesday, May 25, 2004

SENATE

Tuesday, May 25, 2004

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

PAPERS LAID

1. Second Report of the Auditor General of the Republic of Trinidad and Tobago on the non-receipt of the financial statements of the Board of Industrial Training of Trinidad and Tobago for the years ended December 31, 1995; December 31, 1996; December 31, 1997 and December 31, 1998. [*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 non-receipt of financial statements of the Board of Industrial Training of Trinidad and Tobago for the years ended December 31, 1999; December 31, 2000; December 31, 2001; December 31, 2002 and December 31, 2003. [*Sen. The Hon. C. Enill*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the abridged financial statements of the Deposit Insurance Corporation for the year ended September 30, 2003. [*Sen. The Hon. C. Enill*]
4. Annual audited financial statements of Trinidad Nitrogen Company Limited for the financial year ended December 31, 2003. [*Sen. The Hon. C. Enill*]
5. First Annual Report of the Protective Services Compensation Committee for period January 01 to December 31, 2001. [*The Minister of National Security (Sen. The Hon. Martin Joseph)*]

ORAL ANSWERS TO QUESTIONS

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I wish to advise the Senate that the answers are not ready for questions Nos. 54, 55, 56, 78 and 79. I wish therefore to seek leave of the Senate to have them deferred for one week.

Madam President: We have the answer to question No. 80.

The following questions stood on the Order Paper in the name of Sen. Wade Mark:

**National Lotteries Control Board
(Sponsorship of Events)**

- 54.** A. Could the hon. Minister of Finance provide:
- (i) a detailed breakdown on the number of events sponsored by the National Lotteries Control Board during the period January, 2002 to March, 2004;
 - (ii) the costs of those events for the same period?
- B. (i) the precise procedures adopted by the National Lotteries Control Board in granting sponsorship or financial support to the various individuals/groups and organizations;
- (ii) the total amount of money paid to the firm of Alexander, Jeremie and Company in respect of its investigation into the operations of the National Lotteries Control Board for the period 1998 to 2001?

**National Lotteries Control Board
(Investigative Team for Donation)**

- 55.** A. (i) Could the hon. Minister of Finance state whether the National Lotteries Control Board has appointed a special team to fully investigate requests for donations before they are granted by the board;
- (ii) If the answer is in the affirmative, could the Minister provide the names of the team members and the criteria, if any, used by the team to determine the bases for the granting of donations?
- B. Could the Minister provide a detailed monthly account on the number of legal briefs, retainer costs and legal fees paid to the firm of Alexander, Jeremie and Company by the National Lotteries Control Board for the period January 2002 to March 2004?

**National Lotteries Control Board
(On-line Terminals)**

- 56.** A. Could the hon. Minister of Finance provide a detailed breakdown on:
- (i) the number of persons who have had their on-line terminals recalled by the National Lotteries Control Board between the period January 2002 to March 2004;

- (ii) the names of these persons;
 - (iii) their addresses; and
 - (iv) the number of years of association with the NLCB?
- B. Could the hon. Minister further provide a list of:
- (i) the number of on-line terminals supplied;
 - (ii) the names and addresses of the agents who were supplied for the period January, 2002 to March, 2004; and
 - (iii) length of time of association of each agent with the NLCB?

Questions, by leave, deferred.

The following questions stood on the Order Paper in the name of Sen. Sadiq Baksh:

**Petrotrin
(Vice-President Human Resource)**

- 78.** A. Could the hon. Minister of Energy and Energy Industries indicate:
- (i) the name of the person who is the incumbent Vice-President, Human Resource at state-owned Petrotrin;
 - (ii) the date of appointment to the post of Vice-President;
 - (iii) the remuneration package and all the personal benefits paid to the named person?
- B. (i) Could the Minister indicate whether the post of Vice-President, Human Resource, at Petrotrin was publicly advertised;
- (ii) If the answer is in the affirmative, could the Minister state the process which was used in the selection of the incumbent?

Shell Global Solutions

- 79.** A. Could the hon. Minister of Energy and Energy Industries state whether he is aware of a study being done by Shell Global Solutions on the assessment of the stability of Executive Management positions within the organisation?
- B. Could the Minister advise on the recommendations and/solutions made by Shell Global Solutions with respect to the incumbent Vice President, Human Resource post?

Questions, by leave, deferred.

National Housing Authority

80. Sen. Sadiq Baksh asked the hon. Minister of Housing:

- A. Could the Minister state what is the outstanding balance of monies owed to the National Housing Authority (NHA) up to April 30, 2004?
- B. Could the Minister provide on a monthly basic the receipts on all rental accommodation of NHA flats and/or apartments for the period January 01, 2003 to April 30, 2004?

The Minister of Housing (Hon. Dr. Keith Rowley): Madam President, although the question does not specify the debtors, it is assumed that the question refers to persons who have either purchased property from the National Housing Authority (NHA) or are renting property from the NHA.

The outstanding balance of monies owed to the NHA up to March 31, 2004 is as follows:

Item	Balance/ \$ Million
Total Mortgage Portfolio	613.5
Arrears as at March 31, 2004	248.1
Total Rental Portfolio	9.4 per annum
Average Annual Collections (2002—2004)	6.9
Average Annual Arrears (2002—2004)	2.5

Even though the question asked for figures up to April, we are still processing that information and it is not available at this time. The information I gave is up to March. The transactions for April 2004 are currently being processed.

The receipts on all rental accommodation of NHA flats and/or apartments for the period January 01, 2003 to March 31, 2004 are as follows:

MONTH	RENT RECEIVED	
	2003	2004
January	579,849.03	664,723.42
February	487,640.84	522,734.72

MONTH	RENT RECEIVED	
	2003	2004
March	544,194.38	759,787.69
April	574,929.10	
May	546,810.38	
June	571,257.57	
July	543,867.96	
August	582,391.37	
September	603,611.73	
October	540,433.05	
November	499,433.42	
December	633,480.41	
TOTAL	6,707,899.24	1,947,245.83

For emphasis you would notice that the collection for March on a year to year basis was 40 per cent higher than the collection for March last year. For the first quarter of 2004, if we are on track with that collection, we would be 20 per cent higher than last year.

Thank you.

**EQUAL OPPORTUNITY LEGISLATION
(PROCLAMATION)**

[Third Day]

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

Question again proposed.

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

Madam President: The persons who have spoken so far are Sen. Wade Mark, Sen. Basharat Ali and Sen. Dr. Tim Gopeesingh.

Sen. Dr. Jennifer Kernahan: Madam President, the struggles for equality and justice are as old as the organization of men into families, tribes and nations. The spirit of

Equal Opportunity Legislation
[SEN. DR. KERNAHAN]

Tuesday, May 25, 2004

rebellion against all types of oppression whether religious, social, political or economic has underpinned struggles and revolutions that have propelled our societies from tribal societies to feudal, to monarchies, to capitalist, to communist and back to capitalist societies. Beneath all this upheaval, revolution and struggle is that spirit that seems to burn within the soul of mankind for equality, justice, freedom and independence. This has transcended race, geography and gender.

We in the West Indies are no exception and no strangers to struggles for equality and justice. We have experienced the most barbaric type of oppression in the guise of slavery, colonialism and now neo colonialism. Today, if you look at the world, all the different conflicts that we see in Sudan, Iraq, Afghanistan, Palestine and Haiti are based on the people's struggles for justice and equality. The creation of West Indian society was based on the most brutal rape and plunder of the African Continent. This was documented in Walter Rodney's *Europe and Africa*. The exploitation of indentured labour from India also laid the basis in these societies for the enormous extraction of wealth and power by the major colonial countries such as Great Britain.

Eminent economists such as John W. Smith in *The World's Wasted Wealth* made the analysis that at the height of the rule of Great Britain, with 2 per cent of the world's population, Great Britain produced 54 per cent of the manufactured products in the world. This would give an example of the massive extraction of wealth out of colonized countries that served to build the more developed countries. It is an example of the massive inequality perpetrated at the barrel of a gun by the colonizing countries. Some of the more active intellectual leaders of the former colonized countries have indicated that the extraction of wealth is such that developed countries extract about \$30 million worth of raw material from colonized countries. They process this in the developed countries and add value to the tune of over \$300 million. That value added translated into jobs and wealth generated in the so-called rich countries such as Japan, United States and Europe; value added, which, if effected in the neo colonial countries, would have served to balance this massive inequality between countries and nations that the world has experienced today.

Fidel Castro in *The World Crisis* documented some interesting figures which relate to our West Indian societies. He has pointed out the massive inequality and extraction of wealth that takes place in our modern era. He said:

“In 1960, 6.3 tons of oil could be purchased with the sale of a ton of sugar. In 1982 only 0.7 tons of oil could be bought for a ton of sugar.

In 1960, 37.3 tons of fertilizers could be bought for a ton of coffee.

In 1982 only 15.8 tons could be bought for a ton of coffee.”

This speaks to us directly because we are exporters of coffee or we have been to a great extent. At present, other Caribbean countries export bananas, coffee and agricultural products and import fertilizers and oil. This massive extraction that is documented, speaks to the inequality, poverty and decadence of the present system that needs reforming. In this document, President Fidel Castro called for the establishment of New Economic World Order.

I would give one more example.

“In 1959, with the income from the sale of 24 tons of sugar, one 60HP tractor could be purchased. By late 1982, 115 tons of sugar were needed to buy that same tractor.”

The point has been made with respect to the massive extraction of the wealth of the economies of countries in the West Indies. In the West Indies, particularly, and in other former colonial countries, we faced double jeopardy in this inequitable extraction of wealth from our economies to the more developed countries. In addition to that, we faced a built-in disparity in the distribution of wealth in our societies from colonial days. This is based on foreign systems that were established in our societies that did not come from the needs of our people, but from the needs of the colonial masters in order to further deepen their grip on the economies and wealth of the countries. We face double jeopardy of massive extraction and inequality of the distribution of what little remains in our countries.

The 1970 mass movement in Trinidad and Tobago alerted the world to a country on the verge of crisis. It identified serious issues such as racial and social inequalities; political disparity and discrimination and cultural bias. Just recently, we celebrated Shouter Baptist Liberation Day and this was one of the most outstanding examples of cultural and religious bias in our society that took us over 50 years to right. Shouter Baptists were banned by law, from practising their religion. The movement pointed and alerted the world to a society wracked by economic dysfunction and inequity. The commanding heights of our economy were in the control of foreigners and the distribution of the resources of our country was totally inadequate to meet the needs of the masses of the people for basic sustainable life.

Even then, in the height of the turmoil of the unrest that characterized that period of our history, the then prime minister, Dr. Eric Williams, recognized the legitimacy and demands of the movement. I would like to quote a few lines from a speech given by the prime minister from the book *Black Power Revolution 1970*, by Selwyn Ryan.

“...let us proceed to work more positively than ever towards the economic and social upliftment of the Black disadvantaged groups in our society of both African

Equal Opportunity Legislation
[SEN. DR. KERNAHAN]

Tuesday, May 25, 2004

and Asian origin, as the only way to achieve the genuine national integration to which so many of us are dedicated. If anyone wishes to continue to march and demonstrate by all means let him do so. Our Constitution guarantees this as a fundamental right...Our young people are a part of the general world malaise, seeking something new and something better, and seeking it with a sense of urgency. They are restless, frustrated, possibly a little exuberant.”

The legitimacy and right of the people to march, demonstrate and to express their frustration at the economic and social inequality; disparity in the distribution of the resources and cultural bias was recognized

This was not only a problem common to Trinidad and Tobago but also a worldwide phenomenon as Dr. Eric Williams pointed out. Other leaders had taken different paths and placed themselves at the head of these mass movements, with their restlessness and yearning for more equality and justice. Other leaders sought to deliver to their people their legitimate demands.

History shows that in a continent such as Africa, Kwame Nkrumah, a hero, thinker and an intellectual sought to chart a new course in Ghana in order to deliver on the question of equality. In the Caribbean, we have the Cuban Revolution 1959 and they established their model with a view to deliver to their people in their legitimate quest for more equality, justice and a fairer distribution of the resources in service of all its people. We had the Grenadian Revolution in the Caribbean led by Maurice Bishop. That society sought to develop and establish its model for equality and justice. We had the example in South Africa of Nelson Mandela who very recently graced our country with his presence. They fought to establish a society in South Africa where inequality, injustice and discrimination based on race would be things of the past.

We in Trinidad and Tobago were not alone or unique. In the 1970s, our young people were looking at these models to see what could be established for the development of former and neo colonial societies to rid the society of the ills and evils of inequality and discrimination. Unfortunately, what Dr. Eric Williams subsequently did—as opposed to the other leaders who placed themselves at the head of these movements and carried their struggles forward—was to smash the demonstration movement, and jail the protagonists, the flower of the youth, the intellectuals who started to think and open the society in a way like never before. He and his forces killed over 13 of the finest sons and daughters of the soil who fought fearlessly and gave their lives for equality and justice in this society, one of them being—

Sen. Dumas: Madam President, I am sure that the Senator knows that she is violating our Standing Orders.

Madam President: Senator, I was a bit concerned about your choice of words. I think you need to be very careful about the words you are using. Continue.

Sen. Dr. J. Kernahan: Thank you, Madam President. As I was saying, 13 of the finest sons and daughters were killed in their struggle for equality and justice in this land by the then regime, including my 17 year-old sister, Beverly Jones.

Sen. Dumas: Madam President, I just want to suggest—

Madam President: Point of order?

Sen. Dumas: Yes. The Member is misleading the House. Who were these people that were killed leading fight for justice? “Wha is yuh story?”

Sen. R. Montano: “Why don’t you sit down and shut up?”

Sen. Dumas: Not you! You “doh” qualify boy! “You doh” qualify to tell me about that! Not you!

Madam President: Members! Minister, please sit down. Members, I will not have this carrying on. If you stand on a point of order, hon. Minister, then leave it up to me to make the decision.

I was not too sure, in your point of order, what exactly you were saying. I do not know whether you want the Senator to name the 13 people.

Sen. Dumas: Madam President, there is no record on this nation of the Government of Trinidad and Tobago at any point in our history being guilty of execution of our citizens in pursuit of justice. There is no record! I am not going to sit in this House and allow that!

Madam President: Thank you very much. Therefore, Senator, under those circumstances, I ask you to be very particular with what you are saying with your words. I uphold his point of order.

Sen. Dr. J. Kernahan: Among those killed in the Caura Hills was my sister Beverly Jones, 17 years old. Thirty-four years after the social revolution of 1970—

Sen. Dumas: Madam President.

Madam President: Point of order, Senator.

Sen. Dumas: I have uncles and cousins who were shot at in those same years at the same time. If we want to make this a personal family matter, we can do that. Certainly, we cannot bring to this thing personal interest! This is a violation of your oath! I have brothers, cousins and uncles who were in the hills and being shot at by these people when they died.

Madam President: Sen. Dumas, please sit down. Members, I do not know why it is—okay, you had relatives and you had relatives. There is no reason for you to carry on like that and besides which, you are being discourteous. If that continues again, hon. Minister, I am going to have to act against you. Please do not let it happen again.

Senator, please do not impute improper motives to anybody. That is my ruling.

Sen. Dr. J. Kernahan: Thirty-four years after the revolution of 1970, which identified a country on the verge of crisis, today, we have a country that is virtually ungovernable. The 1970 Black Power Revolution as it was popularly known was led by intellectuals such as Makandal Daaga, Clive Nunez, George Weekes, and Kafra Kambon who identified this crisis. At this point, we have lurched from bad to worse. We have become a society fractured and paralyzed in the grip of inequality, discrimination, corruption and nepotism and we are unable to extricate ourselves, unless we make very fundamental changes in our society. The colonial system of divide and rule which we inherited, put one group against the next and a political system and, subsequently, constitutions which were imposed on this country have been unable to deliver to the people their legitimate demand for equality and justice. This goes deep into the roots of a society in the whole system of inequality between nations and people of colonized countries.

With the best political will in the world this problem would be astronomical. This problem becomes impossible to solve when you have a government that seems to be oblivious as to the depth and nature of the problem and in a fog or daze, unable to grasp the essentials of the problem and to institute the necessary changes in the society that would take us forward. Because of these deep-rooted fractures, divisions, suspicions and prejudices which we inherited from our colonial past, we never had a leader until the coming of the UNC that would serve to unite this country in a way that it has never been united before, under the banner of “national unity”. Because we never had the sort of leadership that confronted the historical problems of colonial people, we have degenerated and slid further and further into the abyss of poverty, inequality and prejudice at the point at which our society is totally polarized. With the regime in place that is fuelling this polarization for the good and profit of a few, and to the dismay and destruction of the many, we are on the path of serious patricide and matricide. We are seeing it every day in our society. We are on the brink.

It is not something that I am making up. A casual look at the headlines in the newspapers over the last two years would give an indication of what our society has been reduced to by inept, corrupt and clueless leadership. This is the headline of Friday, January 09, 2004, “Kidnapped victim now US citizen convinced senior cops involved”.

Another headline of Friday, January 09, 2004, in the *Probe* “Shocking Revelations from Richard Bickram. I knew Dhanraj was innocent because police cartel control corruption.” Another headline from Friday, January 09, 2004, of the *Probe*, page 29, “Manning plays politics with the police. Oops he did it again” by Ken Ali. Even more recently in the *Trinidad Guardian*, we had the headline on Monday, May 24, “Thousands send warning to criminals beware”. “We want our country back”. “Barrackpore march draws thousands”. Another headline is, “Police Complaints Authority Reports Cops Shielding Cops” . A headline of Tuesday May 25 in the *Daily Express*, “Jamaat death threat. Take them seriously.” “The Army Is Ready”. Other headlines are: “Security alert after Muslimeen threats”; “Crime protests”; and “Shut down Penal”. It goes on and on.

This is the climate in which we exist at this time. I doubt I can call it living. What passes for life in this country is really a travesty. We can no longer live because the ordinary decent enjoyable things that people are accustomed to doing with their families, that would qualify life to be called living, are no longer possible. We are afraid in our homes and to step out of our homes. People are being gunned down in the driveways of their homes and found in forests. Young, bright people in whom so much love, energy and education have been invested are being lost. We are losing our young people east, west, north and south, from Barrackpore to Gonzales to Laventille to Tobago. Tobago has gone the way of all flesh. It is in the grip of a crime wave that is unprecedented in its history. People are traumatized by the fact that our island of Tobago is under threat. This is the type of society that we live in.

We are unable to have equality of opportunity to a life of dignity, peace and personal security. The right to security, peace, and free association are established in the Universal Declaration of Human Rights by the United Nations. These are fundamental rights. At least there is a situation in this country where citizens are no longer able to have, hold and keep properties which they have worked hard for and they have to sell them and run from the country in droves. Every day when you ask about a family: What about this family whose son or daughter has been kidnapped? They have left the country. This has broached and breached their right to personal security and to hold property. This is inequality that is being established. Some people are able to live here, operate here, break the law and amass fortunes with impunity, even elements in the police force. All criminal elements in this country are able to live, work and ply their various trades with impunity and other citizens are not allowed to do that. That is an aspect of inequality and discrimination that is very serious.

It strikes at the economic roots of this country. Businesses are closing down and more and more people are coming on the breadline. When you have this rampant inequality in terms of how our people are able to hold their properties; earn a living and secure their family, it is as unequal as you can get in a society.

Equal Opportunity Legislation
[SEN. DR. KERNAHAN]

Tuesday, May 25, 2004

The problem with this regime is that it is a very superficial one. It does not understand the nexus between elements in the society. They see everything through blinkers and one aspect of a situation. They are unable to link the different elements in the society and how it affects other aspects of the society. They are asking: What does crime have to do with inequality? They do not understand that they are creating serious situations of inequality when they allow the crime situation to continue unabated, as it was done hitherto.

At this time, I would present to this honourable Senate this regime's lack of performance; endless changes of Ministers, shifting from one ministry to the next with the constant downward slide in all aspects of our lives in this society. This regime is actually guilty of being in breach and running afoul of a number of Articles in the Universal Declaration of Human Rights. I will read the Preamble:

“Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

In the Preamble we can see the people of this country are feeling it incarnate propia. These fundamental inalienable rights of all human beings are being violated under this Patrick Manning regime at this point in time. Our right to be protected by the rule of law is being violated every day. We just had the case of Galene Bonadie who was shot point blank and murdered in cold blood in full view of members of her community and nothing has been presented to the society in terms of any sort of vindication or explanation. We have had a number of young people such as Ashmead Baksh who was kidnapped and murdered. He was found tortured in the most brutal manner and nothing would come out of that. I do not know what reparation or justice a family who has suffered a loss like that can expect from anyone. From the Preamble, we are seeing that under this regime the people are being denied of fundamental human rights.

A number of Articles go on to establish the rights of which we are deprived every day. Article 5 states:

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

Up to last week my hon. colleague raised a matter on the adjournment with respect to the conditions in prison. This pointed out or highlighted the cruel treatment that could be termed torture that prisoners undergo. As long as you are a prisoner you seem to lose your human rights. This is inequality. Equality in the society is embedded in the right to fair treatment and security, the right not to be tortured.

Article 7 relates to the inequality that we suffer and the abuse of human rights as enunciated by the United Nations. It says:

“All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

Recently, we saw several individuals had to bring suits against the Government and they won. These suits were with respect to inequality of treatment in terms of their right to work; practise their profession and promotion in the civil service. Marlene Coudray brought a suit with respect to this sort of discrimination and she won. There are several other cases that Sen. Dr. Gopeesingh mentioned last week when he made his contribution. People in this country are being deprived of their rights to work and the equality by this oppressive regime. They are forced to take their cases to court and they are winning them. This is documented and I am not making it up.

Another Article that is interesting to me and relevant to our situation is Article 10. It says:

“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”

Article 11(1) says:

“Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.”

We have seen a trend of action that prejudices individuals with massive pre-trial publicity. Our political leader has gone on record as saying that he doubts anyone in the UNC would be able to obtain a fair trial in this country. It is that bad. The flurry of pre-trial publicity and headlines would prejudice the public's mind against those persons and which as the Declaration says, that each person has the right to be punished fairly in a court of law. This has all the elements for defence and not prejudicial to the accused. He is assumed to be innocent until proven guilty. My colleagues are victims of the breach of this particular Article. That is rampant inequality.

When other persons go before a court of law, the headlines are very subdued; everything is found on pages 5 and 6 and at the end. Even though Members of Parliament are found guilty of assault, you do not hear anything about it. It is tucked away in the back page of a newspaper and people are free to walk the road to continue to assault other citizens. This is rampant inequality and in breach of the Human Rights

Equal Opportunity Legislation
[SEN. DR. KERNAHAN]

Tuesday, May 25, 2004

Declaration of the United Nations. This is what is happening in our country. Almost half the Articles in this declaration are breached by this Patrick Manning regime.

Sen. Dr. Saith: Madam President, on a point of explanation. Perhaps, the hon. Senator could tell us what she would like the Government to do with respect to media reporting and headlines.

Sen. Dr. J. Kernahan: Madam President, it is not my place to tell the Government what to do. They came to power. They came to save Trinidad and Tobago and they are supposed to have the answers. When we go back in government, we would know what to do.

Sen. Dr. Saith: Are you then saying that when you get back in government you would deal with the media?

Sen. Dr. J. Kernahan: Madam President, what we would not do is to breach the fundamental rights of citizens to equality and protection by the law, by leaking information and setting up people with false information.

Article 19 speaks to the heart of the inequality being perpetrated under this regime on the people of Trinidad and Tobago. It says:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without inference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

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

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

Question put and agreed to.

Sen. Dr. J. Kernahan: Madam President, I am dealing with Article 19 on the right to freedom of opinion and expression.

We have seen the most brutal legislation brought before Parliament in this country which negates the right of freedom of association and expression. This PNM regime has a history of bringing—the Industrial Stabilization Act was anti labour, anti worker and anti democratic, which was brought and passed by this regime in order to stifle freedom of opinion and expression. I am very much afraid that at the rate we are going in this society with the developing fascism we are seeing every day. This Prime Minister has the most court cases of litigation ever filed against a prime minister. From every area of the society there are litigation and court cases because of the fascism that is taking place in this country.

Recently, I was saying to my daughter, I am afraid that in the next 10 to 15 years, it would become untenable for any member of an opposition to stand and give an opinion against the government of this country. This is the trend that is taking place. It would become an urban legend that somebody could stand and criticize the prime minister or the regime in this country. My grandchildren and great grandchildren would ask me: Granny this is really true that you could have criticized the prime minister of this country? I would say, "Yes darling. It is true, but that was a long time ago." This is the path that this country is taking. If we do not nip it in the bud and stop it right now and the people do not come out in their massive numbers as they have started to do, as you have seen in Barrackpore, if we do not fight and be vigilant about our democracy, very soon, we would lose it.

Another Article we have seen breached is Article 23(4). It says,

"Everyone has the right to form and to join trade unions for the protection of his interests."

We have seen Bills brought to this Parliament that prohibit members of the medical profession from joining a trade union of their choice.

Sen. Dumas: Madam President, there was no such Bill before this House. Prohibiting you from joining a trade union? That is not true.

Madam President: Hon. Senators, you are arguing again on the floor. I have an idea of the Bill that you might be talking about, but I do not think it is before the Senate at the moment. It is to be debated. Try not to refer to it. That is anticipation. Please continue, Senator.

2.30 p.m.

Sen. Dr. J. Kernahan: Madam President, I need not continue. The point has been well made that this PNM regime, this Patrick Manning regime is a fascist regime; it is a regime that is bent on undermining, undercutting and disseminating all the inalienable rights that all human beings are entitled to under the Universal Declaration of Human Rights by the United Nations. A word to the wise is sufficient. The people of this country will understand what is happening as they have begun to do.

Madam President, this question of promoting equality, distribution of resources, fairness and equity and so forth, is not an easy question to find a solution to, especially in difficult societies such as ours, societies that have this whole history of colonialism and of prejudices, of built-in inequalities in the system. Even with the best political will in the world, as I said before, it is not an easy question to find an answer to. It is very difficult, it is very complex as to what kind of systems does one put in place to bring relief to the

Equal Opportunity Legislation
[SEN. DR. KERNAHAN]

Tuesday, May 25, 2004

very poorest, to bring them up to standards where they are able to attract, and draw and be part of the wealth that surrounds them.

It is not easy for young, unemployed persons with little skills, with little social amenities and advantages to look at the extreme wealth that exists side by side with their poverty and their inequity. Therefore, it is necessary that there be a national effort, a total effort on the part of all citizens of this country, a commitment to do away with, to examine the genesis of the inequalities, to examine the genesis of the discrimination and to freely and fearlessly break down all the old institutions that support that inequality, that prejudice and that discrimination and to build and forge new instruments and new institutions that would promote equality, fairness and justice for all our peoples.

We are not saying that this Bill before us, the Equal Opportunity Act is a panacea for all the evils that exist in our society. It is just a tiny baby step forward in the right direction, where people would be given at least one small instrument whereby they can feel that there is some sort of redress where they suffer a discrimination or inequality.

Madam President, we have a serious task ahead of us as a nation and as a people; we have a serious task ahead of us in terms of recreating our society, re-forging our society, forging a society based on vision of our experiences, our goals and ourselves for our children and our great grandchildren. We are extremely fortunate because we are not a poor society; we are not a poor country. We have immense wealth; immense resources and we are just 1.2 million people. The only element missing there is serious political leadership. The headlines and the commentators of the day are pointing to that very significant lack in our society of a serious, knowledgeable, intellectual, and political leadership that knows where we have come from in the society and is nationalistic to take us where we need to go.

That is the element that is missing under this regime because this regime is about short term gains, it is about self-aggrandizement, it is about staying in power, it is about staying in power at all cost, whether it be by the use of criminal terrorist gangs, whether it is by the use of plain murder and torture, whether it is by the use of setting up one's political opponents, putting cocaine in their water tanks, putting guns in their water tanks and so forth; by any means necessary. They brought "by any means necessary" to a new low. When Malcolm X made that statement he was talking about the revolution for the good of the majority of the people but this regime—

Madam President: Is it a point of order?

Sen. Dumas: Yes, Madam President. I do not know—and I am saying she is misleading the Senate. Nobody on this side of the Senate is accused of murder in this

country. The Senator was saying that this regime is in power by murder. I ask that those words be withdrawn or struck from the record. I am not sitting and take that from her.

Madam President: Those were not the exact words. Senator, I kind of warned you before to please not use those kinds of accusations against, whether they are regimes or individuals. You do not have that kind of proof. Please finish up your contribution—you have five minutes left—without going there, please.

Sen. Dr. J. Kernahan: We are faced with this daunting task of carrying this country forward, of restoring peace and sanity to this country, of restoring the rights of citizens to equality before the law, of restoring the rights of citizens to be able to own property, to live and work in the land of their birth and not having to run to foreign countries, sending their children abroad and staying here. The rights of persons to be with their families; to have a family life. All these rights are being trampled upon under this regime by the fact that criminals and terrorists have been allowed to overrun this society with impunity and nobody feels safe. That is a fact. I am not imputing anything to anybody.

We have to face this fact of carrying the society forward in building a sense of nationalism in this society, in building a sense of oneness in this society, of engaging all the problems that are upon us with the advent of globalization. And we have to do it in the context of being inundated by all sorts of negative forces, foreign forces, all sorts of distractions, and all sorts of negative value systems that have practically overrun our traditional value systems and our traditional cultures.

It is not an easy task and it is a pity that the people of Trinidad and Tobago have been subjected at this time to a regime that is clueless of the task before it, that has no vision for the task before it, and has carried this country practically back 50 years in the struggle for emancipation from colonialism and for equality and justice in this country. It is a blow that is going to take us a very long time to recover from but, I am confident that the UNC has the fortitude, stamina, the will, the vision, the intellectual capacity when the time comes to take up the mantle, to take up the reins of power again to carry this country forward. I thank you. [*Desk thumping*]

The Minister of Social Development and Gender Affairs (Sen. The Hon. Mustapha Abdul-Hamid): Madam President, I was very pleased when the Senator began her contribution. I was particularly pleased with the fact that in the early part of her contribution she decided that she would quote from respected authors, academics such as Dr. Eric Williams, and the fact that she had looked to the institution of slavery, indentureship and colonialism and in that era in our history, and that she had identified that some of the major problems we are experiencing in the society today had their roots during that particular period. But my pleasure did not last for very long because she soon

Equal Opportunity Legislation
[SEN. THE HON. M. ABDUL-HAMID]

Tuesday, May 25, 2004

moved from quoting Dr. Eric Williams to quoting the *The Probe* and to quoting her political leader making political statements. She soon descended into what are the normal common, characteristics of statements that come from the other side which are characterized by hysteria, melodrama and paranoia.

I speak in particular to a few quotes that I jotted down while she was making her contribution: “Businesses are closing down”, “rampant inequality”, and “discrimination”. I have sat in this Parliament in the past and I have heard statements made including the following: “crime against humanity”, “genocide”, “most brutal legislation”.

Madam President, in my view, those are the kinds of statements that I refer to as being hysterical, melodramatic, and characterized as paranoid statements.

I would like, if I may, with your permission, to make a contribution today in which there would be a more academic and scientific approach to looking at the situation in which we are today, and a situation that has obtained over the last 40 years. In fact, many of the comments which come from the other side are really made without any historical and sociological context and they are primarily designed to arouse emotions and, perhaps, to serve a political cause. They find no support in history. The comments find little support from academia and, in fact, the evidence is there, the fact that they are on that side is that they have little support among the people.

Madam President, there has been a situation, and we have been looking at and listening to statements that have accused our Government of discriminating in particular against Indian persons in Trinidad and Tobago, in the public service, in the police service, in the army, et. cetera.

Madam President: Hon. Senators, we try to give everybody an opportunity to speak. The last speaker was given full opportunity with little interruptions like what is going on right now. Please, let this present speaker continue.

Sen. The Hon. M. Abdul-Hamid: Thank you, Madam President for your protection. I would like to offer a perspective that takes into account the historical, sociological and cultural realities in the evolution of our society. I am going to add from the onset, in making that statement to try to provide a proper analysis of our society over the last 40 or 50 years.

During the 1950s, and 1960s the early part of our Independence, there were certain requirements to enter into the public service and the police service. In fact, there was a requirement that one had to have GCE passes including English, five passes, to enter into the public service and from 1966, one could have a grade II of a GCE certificate. To enter into the police service one needed to have a primary school leaving certificate.

Madam President, one has to look at the state of the Indian community at around 1956 and 1960 and on that basis, make an assessment as to why Indians were not entering the police service or the public service at that time, understanding that there were criterion for eligibility requirements, qualifications, in place.

At that time during the 1950s and 1960s many of the schools were denominational schools, and they were Christian schools. There are St. Mary's College, Fatima College, St. Benedicts. In the primary schools there were a number of Roman Catholic, Anglican, Presbyterian primary schools in existence at that time.

Indians had a difficulty in sending their children to Christian schools and the difficulty that Indians had at the time was that they felt that sending a child to a Christian school presented a threat to their traditions, a threat to their religion and a threat to their culture. And as a result of that Indians had a great difficulty in sending their children to schools and preferred keeping their children at home and so not running the risk of their children being brought up or trained in a different culture and converted to other religions.

Madam President, that is a very important factor. The fact is these were Christian schools and Indians had decided that it might have been better that their children should not go to those schools. In fact, they opted to keep their children at home and have their children go to the marketplace, help with the business at home, go to the garden, take care of the animals and so on. That is a very important point in understanding why Indians had not entered into the mainstream of the education system up until 1960.

One might ask the question: what about the state schools? Why were Indians then not attending state schools instead of these denominational schools? Many of the state schools were in urban areas, they were in the town and as a result of that the African or urbanized population were the ones that found themselves being better able to take advantage of the educational opportunities being made available at these schools, and I am talking about schools as Queen's Royal College, Tranquility Secondary School and others.

These schools were in the town centres and the Indians were largely in the rural areas and again, Indians had some difficulties in sending their children from the countryside into Port of Spain on a daily basis to attend school. And that, combined with the reality of the number of denominational schools led to a situation where, up until 1960, by and large, a number of Indians did not have the qualifications required to enter into the public service and the police service. Both required a school leaving or GCE secondary education.

In addition to that, the system that operated at the time where exhibitions were provided was also very limited. There were a very limited number of exhibitions offered

Equal Opportunity Legislation
[SEN. THE HON. M. ABDUL-HAMID]

Tuesday, May 25, 2004

and people had to pay to attend schools. Even the exhibitions themselves, there were people who were offered exhibitions and could not attend schools because there were some other costs they had to meet and they could not meet. And so, the difficulty in Indians obtaining education at the time, one has to look at the sociological, cultural and traditional historical factors up until 1960.

In 1960 something spectacular happened, that was intended to provide some immediate relief to make more spaces available to the citizens of this country, the young children of this country and that was the Concordat. There are two main points I would like to quote from the Concordat which are relevant to what we are discussing today. The first one is that 80 per cent of the first-form places in the secondary schools were to be made available to the general public so that members of the general public—the government went into a contract with the denominational boards which provided that 80 per cent of the general public can have access to these school places for free.

The second point which is extremely important is that this political party, this Government ensured that written into the Concordat is as follows:

“Pupils attending the schools of a denomination not of their own faith will not be compelled to take part in the religious exercise or lessons of that denomination.”

That was an extremely important inclusion because it removed the threat that Indians had that if they entered into these schools, they would not be allowed to practise their religion or that they would be forced to practise someone else’s religion.

That was put in there to open up these denominational schools particularly to the Hindu and Muslim population, the non-Christian population of our culture, and that was done by this PNM political party. That is something that represents our commitment to equality and so forth. That is a very important feature of the Concordat.

Post-1960, which is the early period of Independence, this Government took the decision to undertake what was the first major and, perhaps, only revolution in education that this country has ever known. Between 1956 and 1986, understanding that there were limited numbers of spaces available and understanding that in rural areas there were few schools available, understanding that the entire population was deserving of an educational opportunity, this Government embarked on a school construction programme the likes of which—in fact, out of a total of 132 secondary schools that exist today, and one has to understand that there were schools existing prior to 1960 or prior to 1956, the colleges in the traditional denominational schools. Out of a total of 132 secondary schools this Government built 76 schools between 1956 and 1970 and among primary schools, between 1956 and 1996, it built 148 primary schools. I can call them out for the Senate. These are the schools today that are providing an opportunity to all Africans and

the Indians and the Chinese, and the Syrians and all the people of Trinidad and Tobago without ever asking or discriminating on anybody or discriminating in any way whatsoever to their entry requirements.

In 1960—Point Fortin College, North Eastern College, St. Francois Girls existed; Lutchmi Hindu Schools, ASJA Girls and Boys Schools, St. Anthony's College and so forth. Government Schools: St. James Secondary—1961; Woodbrook Secondary, Diego Martin Secondary, San Juan Secondary, Tunapuna Secondary, San Fernando Secondary, Couva Government, South East Port of Spain. Sixth form schools: Roxborough, Scarborough, Palo Seco, Toco, Tabaquite, San Fernando, Moruga, Success/Laventille, Union Claxton Bay, Gasparillo, El Dorado, Barrackpore, no sense of construction of schools in any particular area of any particular interest.

Madam President, this party that sits in Government today must be credited for making educational opportunities available to all and I would demonstrate the extent to which you have benefited from a period of education. Say thank you God, and thank you PNM.

Up until 1960 Indians had their traditional and cultural factors which would have gone into making it difficult for them to access educational opportunities and from 1960 onwards under the guidance of this political party, the educational system was opened up so that everyone could participate and I want to combine that with some comments on the family.

I was happy, as I said, before that Sen. Dr. Kernahan spoke about the institution of slavery and indentureship because I would like to say something on it too. I have said before that the greatest advantage Indians have had over Africans in Trinidad and Tobago, is that indentureship did not do to Indians what slavery did to Africans, and I would like an opportunity to explain.

At the height of slavery the average life span of the slave was two years. He was worked, ill-treated, forced, deprived and beaten to death so much so that he lived two years on average and died. It was a situation where the biggest, strongest African male was put with the biggest, strongest African female and bred to create the biggest, strongest child slave. There was no reference to the institution of the family, which was inconsistent with the institution of slavery and the practice and the principles of slavery. To my mind, the worst legacy, the lasting impression or greatest damage that was done by slavery to African people around the world was the damage that was done to the institution of the family.

The fact that the institution has been deliberately, carefully, systematically disseminated on the part of the colonial masses at the time, is to my mind the one action

Equal Opportunity Legislation
[SEN. THE HON. M. ABDUL-HAMID]

Tuesday, May 25, 2004

during the period of slavery that continues to have an impact up until today. When you compare that with the indentureship, that is where Indians have had an advantage, in that indentureship allowed for the preservation of the Indian family and you need to consider all of that in the context of educational opportunities.

When a place is made for a child to attend a school without family support that child cannot make proper use of that place. What sense is it that I have a place in a secondary school and I have no support at home, I have no money to send me to school, to prepare me to go to school? Can a child five, eight years old go to school by himself without the context of having support, in particular, from a family unit? Which is why Indians have done so well and made such good use of the opportunities that were made available to them by this PNM government, and we see the evidence of it.

Success has very little to do with racial or phenotypical characteristics. Phenotypical characteristics have to do with your physical makeup. It has nothing whatsoever to do with that. It has to do with your sociological circumstance.

In Trinidad and Tobago, wherever there is a functioning family—and in a functional family the children do well. They could come from African homes, they could come from Indian homes, or whatever race that may exist but they do well because they come from an environment that provides the support. So wherever the African family is performing well, the children grow up to be doctors, lawyers, and engineers like everybody else; and wherever the Indian families are doing well, they grow up to be doctors and lawyers; and wherever the family is dysfunctional they have the same problems where there are dysfunctional families in the African community. So the issue is a sociological issue and not a racial issue. And that is something that must be borne in mind.

So you hear that there are no Indians in the police service and the public service and they are discriminated against, you need to know where to look for Indians. And given that we have expanded the education system today, there is a situation where a large number of our doctors are Indians, a large number of our engineers are Indians, a large number of the lawyers are Indians and even within the public service you need to know where to look too because they have decided not to go to the police service. I will tell you. You go to the immigration office and you would see the number of Indians that are there; in customs; teachers, that is where they are because there are certain areas to which they prefer to go. I will quote from the *Employment Practice in the Public and Private Sector* by the University of the West Indies statistical study, 1993, page 7:

“Tendency of Indians to be heavily under-represented at the higher reaches of the Public Sector...There are no doubt historical and cultural factors which explain this imbalance. Its persistence into the present is however due to the operation of a seniority principle...”

That is what I have been explaining and Sen. Prof. Ramchand, you would forgive me and that is why I did not want to be disturbed at that time. I wanted to complete the thought. And I thank you for your patience.

“It was found that where merit and technical criteria prevail, such as in the judicial and professional sectors, Indians were more than adequately represented.”

Madam President, we need to be honest, fair, and we need to be just and we need to recognize that we ought not to be ungrateful and make comparisons with countries that have not had the kind of experience that we have. If a government wants to suppress a people, any government any part of the world would like to suppress a people, the most effective strategy to use is to deprive them of education, and this Government has demonstrated a long history of making educational opportunities available to all.

I did not come from a wealthy family. My grandmother used to sell in the market and I went to QRC. The reason I had that opportunity to go to one of these “good” state schools was that the opportunity was made available to me. Had I been born 30 years earlier, that would not have been the case. And no one asked me if I were Indian or if I were African. My name was read out and the school was called. Look at the university today!

If I were a government and had an interest in—[*Interruption*] If I were a government—Listen to what I am saying. If I were a government—There is something called metaphors. Do you need for me to give you an English language lesson? There is something called metaphors and that is a metaphor—and wanted to deprive people of progress, of upward mobility I could starve them of education. That is the point I am making.

When you look at the other historical factors on the quality of the institution of the family among Indians that is what is responsible today for the large number of Indians excelling in the areas in which they are excelling and I have showed you where you can find them. They own businesses. It is not a racial issue. Let me quote again from the same study that I spoke about earlier:

“The survey related that the number of firms owned by Indo-Trinidadians far exceeds those owned by other ethnic groups. 39.4 per cent of the firms surveyed were owned by Indo-Trinidadians....”

So that is where the Indians are, they are in the businesses.

“Employees of a particular ethnic group tended to be over-represented within firms owned by persons of similar ethnicity.”

Equal Opportunity Legislation
[SEN. THE HON. M. ABDUL-HAMID]

Tuesday, May 25, 2004

What they were saying here is that Indian firms tended to have an over-representation of Indian employees to the extent that no Afro-Trinidadians were represented at the senior level in 88.2 per cent of the firms owned by Indo-Trinidadians.

Are you then going to accuse Indian businessmen of being racist and discriminating against African people? This is a 1993 UWI study which is saying that no Afro-Trinidadian—I am not saying a few, no Afro-Trinidadians were represented at the senior levels in 88.2 per cent of Indian owned firms. Where is the discrimination talk now from you? Why are you not making a hue and cry of discrimination by Indian businessmen against African Trinidadians who are looking for jobs in the private sector? I am not hearing it and you need to be fair.

Sen. Seepersad-Bachan: I want to just clarify something.

Sen. The Hon. M. Abdul-Hamid: After the kind of behaviour I saw from you, really, I am not feeling so loving today, another day, another time.

Madam President, that brings me to a question on civil disobedience if, I may.

The Opposition has a stake in a national disturbance. They see themselves as being under a kind of pressure, whatever pressure it may be, and they think that a national disturbance would allow them the exit or the rebirth that would be useful to them. That they much need because in the present circumstances they are not comfortable and they would like a national disturbance at the end of which, perhaps, the circumstances might be different. So they have called for civil disobedience. They have really called upon Indians in Trinidad to come out and march and block the streets of Port of Spain and riot and whatever area—[*Interruption*] that is a fact that they have called for persons to come and block the roads and they have called on the citizens to rise up and march and to do all kinds of things, civil disobedience, whatever it is. And not a man moved! Do you know why, they called on Indians to do that and not a man moved?

Sen. Seepersad-Bachan: On a point of order, section 35, imputing improper motives. No UNC party ever called on any Indians to come and block any streets. Let me make that very clear, or anybody for violence or anything.

Madam President: Hon. Minister, as Sen. Mark has said across the floor, they called on citizens. Please do not purport to make it Indians. In that case, I will have to rule you—

Sen. The Hon. M. Abdul-Hamid: That is okay, Madam President. They called on citizens who are their supporters to come out and take action and to me, to engage in acts of civil disobedience. The citizens have not responded and I will like to draw your attention, in response to the East Indian people in particular. If my name is Dr. Ramnath

and between the hours of 8.00 a.m. and 1.00 p.m. I am in my office, and I can calculate I would make about \$11,000, \$8,000 during that period or if I have an out shop and on a Saturday morning I make \$4,000 or \$5,000 profit, I have a business somewhere and I know what is coming into my pocket because in Trinidad there is a nice healthy business climate. There are many new economic activities. Madam President, what am I, Dr. Ramnath, leaving my good office where I am making all my good profit, I am a professionally trained citizen of this country having taken advantage of the good PNM education which was offered to me, why in heaven's name am I leaving my office to go and block any road any part of Trinidad?

The point is that Indians have been doing so well in Trinidad that they have no interest in any civil disobedience. The call for civil disobedience would be effective and would be responded to in circumstances of depression, in circumstances of hardship, in circumstances where things are difficult and people are going without. That is not what is happening with Indian people in Trinidad. Doctor this and engineer this and his majesty and his lordship, they are not going to march on the streets. That is why civil disobedience has failed. The call for civil disobedience has failed primarily because their supporters are doing well under this Government and they have done well under this Government for the past 40, 50 years since it has been here. The supporters of that party have done extremely well. For a long time those supporters did, in fact, support this particular party.

Madam President, something else has become characteristic in furtherance of this particular cause which I would like to mention. And it is to my mind an attempt to do what I call "stimulate terrorist activities in this country". And they have an interest, given that the calls for civil disobedience did not produce any fruit, they have redirected their energies in an attempt to what I call "to stimulate terrorist activities".

Madam President, can you believe that the UNC is using the word, "Jihad" and calling for Jihad? All of that has to do with—

Sen. Seepersad-Bachan: Madam President, I do not remember any call for Jihad. I do not know where the Minister is getting that.

Madam President: Hon. Minister, be very careful of imputing improper motives, Jihad or whoever. You cannot point to any particular group or individual who may have made that call.

Sen. The Hon. M. Abdul-Hamid: Madam President, they called for civil disobedience last week and they are looking for new options. In so doing, one of the things that has characterized that particular regime in terms of educational opportunities—because much of what I have been saying really was intended to

Equal Opportunity Legislation
[SEN. THE HON. M. ABDUL-HAMID]

Tuesday, May 25, 2004

emphasize the good contributions that we have made to education, and as part of this discrimination call.

The John S. Donaldson Technical Institute in particular, has found itself suffering as a result of the starvation of resources. The San Fernando Technical Institute has found itself suffering as a result of the starvation of resources and I will give an example.

For a short while I was the Minister of State, in the Ministry of Science and Technology and I had the privilege of doing a tour of both the John S. Donaldson and San Fernando Technical Institutes and the Trinidad and Tobago Institute of Technology (TTIT) in Couva. Madam President, chalk and cheese. When you go into the bathroom at the John Donaldson Technical Institute the building is splitting in two, the people are suffering for equipment.

There was a particular course that needed computers and there were no computers available and when we tried to buy computers we could not put computers in the building because the electrical system was so bad that they would damage the computers. That is what JD had come to between 1995 and 2001. At the same time, when you look at the volume of resources that had gone into the TTIT—I went in there and the kind of equipment I saw, it was unbelievable, not that it was not needed but it was the relative comparative treatment of one school to the other. The last time [*Interruption*] the Member knows when he gets “rough up” his hair gets ruffled and he cannot take it. Relax yourself for me, please. Allow me to speak. I am speaking the truth.

Sen. Dr. Saith: Do not get distracted.

Sen. The Hon. M. Abdul Hamid: I am speaking to what their legacy in education has been and they are the ones that talk this discrimination talk. Look at their legacy, look at the relative treatment of one institution over another and look at the overall context in which it was done.

I really wanted to spend a little time drawing to the attention of this honourable Senate certain historical factors, certain sociological factors that may have been responsible and may be responsible for the situation as exists today and the intervention of this Government and the quality of intervention which has led to a situation today, where the success of all the citizens of this country, it is fair, it is well distributed and it is balanced, and it has everything to do with the good quality governance that this party has given to this country between 1956 and 1986 and up until today.

Madam President, I thank you.

Sen. Dr. Eastlyn McKenzie: Madam President, I want to just go back to the Motion under debate. The resolution is that the Government should take immediate steps to have

the equal opportunity legislation proclaimed and fully effected in the Republic of Trinidad and Tobago.

I have read where the Equal Opportunity Act was before the court and that there has been a ruling that the Act is non-constitutional or unconstitutional, whichever it is, and as a consequence we are at a standstill. However, I also understand that there has been an appeal and I think that gives us the liberty to say a few things on the Act and the resolution as put forward by Sen. Mark.

I remember very well when we debated the Equal Opportunity Bill in this Senate two or so years ago. And I remember distinctly that the then Opposition did not fully support the Bill. In fact, there were some Members of the Independent Bench who would have liked to see other areas put into the Act, that at that time it was felt that the country was not ready for. I think Sen. Basharat Ali referred to some of these areas when he made his contribution and that brings me to a very important point that I want to make, and that is, I would hate to think that a party in opposition would oppose a Bill and if that party happens to form the government later on—and I am not talking about the PNM and the UNC at this time, I am just talking generally—and the Act has not been fully implemented that there is a reluctance to implement the provisions of the Act because when you were in opposition you opposed it. To my mind, that would be a violation of democracy, where we would not be respecting the fact that the majority carried at the time and that the Bill had been passed and had become an Act, and as such, whichever government is in power when it should be implemented, regardless of the fact that you opposed the Bill, the Act should be implemented.

I tried to research to see whether I could have found any instances of this happening because I know that there has been the accusation that because the then PNM in Opposition did not support the Bill at the time, they were reluctant to implement it. But I remember distinctly that the former Attorney General did indicate to this Senate upon questioning that the Act had flaws and that was the reason the Government could not find it possible to implement it.

I would like to go on to some thoughts of my own. Not every lack of opportunity is a discrimination. And we have very many instances to prove where this is not so.

There has been a lack of opportunities for the disabled, and at times this had nothing to do with discrimination. In fact, if one were to think that this was discrimination one would think that some parents discriminated against their own children because they were hiding them. They were not giving them the opportunity.

For those of us in Tobago, the only opportunities for our disabled children whether they were blind, whether they were hearing impaired, or whatever, they had to come to

Cascade and many of the parents were not risky enough, adventurous enough to send their children who were already disabled away from their own sight and, therefore, could we really say that this was discrimination? Those who were venturesome sent, applied and got their children in. So then we could not come to the conclusion that our children in Tobago who were disabled were discriminated against. They had opportunities at times that they could not take up because of various circumstances.

We had the rural children and at the time the only school, for example, in Tobago was the Bishop's High School, until one gentleman opened a school in Roxborough to take care of the rural children, otherwise the parents had to take the children from the countryside and house them in Scarborough and around to get their children to attend the Bishop's High School which was the only secondary school at the time. Then we had the private secondary schools and we had private denominational secondary schools.

I am saying if we give everyone the opportunity, the idea that because you did not grasp an opportunity it was because of discrimination, we would find too many persons not taking up opportunities offered to them and at the end they would blame it on discrimination. And I am very, very careful about that.

We have again, the sociological history of our women and girls. In Tobago, the parents would tell you if I have two children to educate, I have a son and I have a daughter, and even though the daughter might be a brighter, more intelligent child than the boy, the parents would educate the boy. They would not educate the girl because they have to pay. They say, what is the use, in the end she will just become a housewife, home minding children, you "eh" want no secondary education for that. And therefore, you see the sociological factors that prevented people from taking up opportunities. Let us not classify them as discrimination because we would never correct them. We would never open the eyes of parents to say give your children an equal opportunity, give them a chance and I am saying that is one of the things. There were locational barriers.

I remember giving up four years of teaching to go to Mausica Teachers' Training College, at a residential college because I did not have any place in Trinidad to stay. But there was an opportunity that said if you want to be trained as a teacher you can come to Mausica Teachers' Training College, I will give you an opportunity. And we had to say what are the sacrifices I had to make and many of us did that.

Madam President, we have to look at those instances. We want to look at the cultural barriers. Sen. Abdul-Hamid referred to some of them. I know that in the case of nursing for that matter, you trained as a nurse, but in a residential college. Many of our East Indian parents did not want their girls going away from home and they never took up the opportunities and as a consequence we find that in those days—if you look at the nurses

over 50 and so forth, you would scarcely find any East Indian nurses. Not today. It is different. And it is going to change all the time because we are saying here are opportunities for you, and it is not because of any discrimination. It was because of a cultural/social barrier that divided us.

I also want to say that there were religious barriers and I will give you another example. There was a time for young persons to enter into the fire service or whatever, all the examinations for those were on a Saturday. I am sure Sen. Roy Augustus would remember those days—the entry examinations on a Saturday. The Seventh Day Adventists or the Sabbath keepers never did the examinations even when it came to promotional examinations. And I know of fire officers and all of those persons who never did the examinations because it was against their religion to do anything like that on a Saturday. It was not a matter of discrimination. Until it was brought to the attention of the authorities that they were preventing some persons from taking advantage of these opportunities, they shifted the days of the examinations from a Saturday.

I am saying these things to show that without even implementing the Equal Opportunity Act we can open up opportunities for our citizens by being aware of the types of barriers that prevent them from grasping opportunities. Another factor is the question of ignorance. These days we talk about it in another way. We talk about transparency. Ignorance! They do not know. Something is advertised for young people for the Youth Training and Employment Partnership Programme (YTEPP) and they do not know. Civilian Conservation Corps (CCC), they do not know. Whatever it is, they do not know. We want policemen, they do not know. Some do not read and so forth.

I say to use all forms of the media. Use the television, use the radio, use the newspapers, use jingles, use posters, whatever have you, so ignorance would not be a barrier to grasping and taking advantage of the opportunities.

Madam President, there is also the question of educational barriers. We may say we need five 'O' levels to become a recruit in the army or whatever have you and some of our young people may not have it. We therefore can look at those who are really interested in becoming soldiers or whatever and give them the opportunity to upgrade themselves and I am saying that we need not look at this as discrimination. We in Tobago always quarrel. We say we do not have anybody on the national cricket team; we do not have anybody on the football team. We do not have any athletes running. We send down the children, "dey" run "dey" this and "dey" that. We quarrelling all the time, Trinidad "doh" like us, "dey" discriminating, they come and want to shoot we former Prime Minister, we say all sorts of things.

Madam President, that encouraged the authorities to set standards. They said if you could run the 100 metres in so many seconds you stand a chance. They did that and we have Kelly Ann Baptiste and all these people, Kyrstal Skeete satisfying the criteria and they are getting there.

Madam President, let us not give the impression that every lack of opportunity is a discrimination. Because we may be feeding to our young people that they can do nothing and would say they were not being given an opportunity, let us make it sound as though there is a responsibility on the part of parents, there is a responsibility on the part of citizens to grasp opportunities by making themselves ready for the opportunities.

My final point. As Sen. Dr. Kernahan said, too many persons, too many citizens of late, recognizing their rights are taking the Government to court and winning. My solution is, there is need for public education and all members of all our commissions, supervisory staff, permanent secretaries, must be very acquainted with the Equal Opportunity Act.

From my own experience as a public servant, you have supervisors who have to make up staff reports and I have had supervisors who have called me after years have passed and no staff reports. They would say girl “whey you duz do?” You get what I am saying. How can you be given a fair report? How can you be given an opportunity for promotion if the person whom you are working under, under whose supervision you perform, that person does not know what you are doing? I am saying that our supervisory staff, our permanent secretaries, members of boards, and so forth, and all these reporting officers should be given some sort of training before they are promoted or when they are handed their instruments of appointment they should be given a copy of the Equal Opportunity Act, flawed as it may be, that they would understand that violation of this particular clause could land the government or the state in trouble. Many times they just do not know and I think we are at fault when we ask people to perform and do not give them the parameters within which they are supposed to perform.

3.30 p.m.

Despite the fact that I know that the court is adjudicating upon the Act and that it is not complete, I am saying that, in the meantime, we can take steps, as a country, to ensure that people are given opportunities. I am shying away from the word “discrimination” because I do not want to put an excuse in the mouths of people who may not be looking for opportunities and who may not want to take advantage of opportunities.

We see it all the time. We have it in Tobago. We call people for training and give them a stipend—\$50 a day to go to classes. They actually pay them to train them and they drop out. There are people who have said, Can I get a job? I am a mason. They go on the

job. They are paying them \$100 or \$120 a day and they say that the sun is too hot; they say that the rain is falling. So they cannot work in the sun and they cannot work in the rain. I do not know when they will work. It goes deeper than discrimination. It goes to attitude; it goes to will; it goes to values and all of us are in it—parents, teachers, the State, the community and the villages. We have a duty to open up opportunities to our people—to our young people, to our retrenched people, to those in schools—to all our citizens and to let them know that there are opportunities out there. They have to grasp them. Let the opportunities not pass them by.

I am sure that if we all work together to tell people what the opportunities are—tell, educate, advertise; use our village groups, use our church groups, use our community groups, use the media, which does a fantastic job of getting these things out; the jingles are really catching—we would not hear the types of negative comments about the lack of opportunity and the fair distribution of the wealth of this nation that we are hearing now.

Thank you very much, Madam President.

The Minister of Legal Affairs (Sen. The Hon. Danny Montano): Thank you very much, Madam President.

Before I go too far in my contribution, I would just like to take note of the fact that we are debating a matter that has been in front of the court up until recently and, in fact, is going back again. If you would recall, Madam President, we had some doubts as to whether we should be discussing the matter at all because we felt that we might be offending the due process of law in the courts. However, the Senate was persuaded that we could discuss it, and therefore we are discussing this matter. I hope that, in the future, when other matters that are before the court are referred to, the same latitude would be given to discuss those issues and that persons on the other side would not take personal offence.

As our colleague Sen. Dr. McKenzie indicated a little while ago, the issue at hand has in fact been adjudicated on by the high court. With your leave, Madam President, I would read one small paragraph of the judgment:

“The Act is clearly unconstitutional in several respects and there are serious doubts as to the constitutionality of some of its other provisions. In these circumstances, the protection of the law does not and cannot include the right to enforce or to insist on the enforcement of a law, which is itself inconsistent with the Constitution.”

It is a very clear, unequivocal statement as to the state of the law.

I would like to state, on behalf of the Government, that this was the advice this Government had received from its attorneys and, therefore, felt that it was inappropriate

Equal Opportunity Legislation
[SEN. THE HON. D. MONTANO]

Tuesday, May 25, 2004

to promulgate the legislation. Now we find that that opinion is supported by the court of first instance. Of course, there will be an appeal and we will await that judgment, but the advice that we have from a most eminent attorney is that it will fail. With the best intention in the world, it will fail.

I would like to commend Sen. Dr. McKenzie for what was a most sensible contribution. It is a breath of fresh air when we hear contributions that deal with the common sense aspects of some of the issues that we have to deal with. I also commend my colleague Sen. The Hon. Mustapha Abdul-Hamid on what I think, also, was a very sensible and enlightening contribution. There were some articulate facts of history.

I lament the entire debate and the basic issue that has brought us to the debate. The Opposition Senators are claiming racialism on the part of the Government and a previous speaker attributed certain sentiments to me, to which I take strong objection. The Opposition is using the opportunity to divide the country racially—to tear at the very fabric of our society because they have no other real issues with which to deal.
[*Interruption*]

Madam President, I am not prone to making wild statements. The reality is that they have come with very little hard evidence to support any allegation of racialism on the part of the Government. They have taken certain indicators, misconstrued the interpretation of those figures and cried foul on the part of the Government, simply to achieve a short-term political objective; never mind they are tearing at the fabric of our society; never mind that they are doing serious harm to the country as a whole. They are trying to coalesce their support around the claim of racialism.

Sen. Dr. McKenzie stated simply and clearly some of the sociological issues behind the opportunities that exist and the fact that some persons fail to take advantage of those opportunities that exist in the society, whether it is to apply to the public service, the police service or wherever. I think that she has a very strong point. I am very certain that if anybody were to count the number of applications to any programme, any job or any institution in terms of racial balance, he would see that the acceptance rate mirrors the application rate and mirrors the profile of the applications. This is what I had said when I made certain statements about the cohort of the University of the West Indies and the Institute of Technology. There are some things that can go unsaid because discretion sometimes is the better part of valour and leaving some things unsaid can be preferable. I will deal with that in a little while.

Sen. Dr. McKenzie went on to talk about some of the cultural barriers, the religious barriers and the ignorance of knowledge of some of the programmes that might be available in the system. She is absolutely right. The fact is that we have a very plural

society. It is very mixed in terms of the population as a whole. We have more or less the same number of Afro-Trinidadians as we have Indo-Trinidadians. We have other minorities like the Chinese, the Assyrians, the European white and mixtures of all of us; but basically the two dominant groups have more or less an equal population.

The truth is, whether we like it or not, what happens here happens everywhere else—in every other society. Catholics tend to marry Catholics; Anglicans tend to marry Anglicans; Hindus tend to marry Hindus and Muslims tend to marry Muslims. Indians, as a whole, tend to marry Indians. Africans, as a whole, tend to marry Africans. Whites, as a whole, tend to marry whites and so on and so forth. There is nothing wrong with that. That is the way of the world. That is the way that it is. That does not make it right. That is just a fact and, therefore, it is not unusual that when you go into the heartland of Caroni—you go to Chaguanas or to Couva—and you look at any of the shops that are owned by Indo-Trinidadians, you find that the employees are largely Indo-Trinidadians. When you go into shops in other areas that are owned by Afro-Trinidadians, you find that, for the most part, the employees are Afro-Trinidadians. That is the way it is. In some of the larger corporations in Port of Spain that are multinational in nature, you tend to find more of a mix, but certainly in companies that are family owned, you tend to see that concentration of race, culture or religion. That is just the way it is.

It becomes far too easy for a weak Opposition to simply make the claim that the Government is biased and that the Government is racial and to fall back on simple racial issues when the statement itself merely signals the weakness of the Opposition and its inability to mount an effective opposition against the policies of the Government of the day.

On the previous occasion, a speaker, Acting Sen. Dr. Gopeesingh, made a number of statements that I would like to deal with. One of the things that he said was that the closure of Caroni (1975) Limited was evidence of discrimination on the part of this administration. It is disappointing to hear a statement like that from a person as well educated as Sen. Dr. Gopeesingh. It is tragic, the myopia with which he looks at the world. Nothing could be further from the truth. It is shocking to think that in the year 2003 we could have 7,000 or 8,000 workers in Caroni (1975) Limited working and doing exactly the same job in exactly the same way as their parents and grandparents did it over 100 years ago—cutting cane with a cutlass. That is what the Opposition is saying we should not have done. We should not have moved any part of the population into the 21st Century. They just cannot understand that, nor can they understand the opportunities that would be created by using the assets of Caroni (1975) Limited for the benefit of the people and to allow them to use their skills to create their own businesses as is beginning to take place now.

Equal Opportunity Legislation
[SEN. THE HON. D. MONTANO]

Tuesday, May 25, 2004

To think they could keep their own supporters in that kind of poverty—using measures that are over 100 years old—is unthinkable. The myopia was demonstrated further when he lamented the fact that we had to import molasses from Guyana, completely misunderstanding what a global economy is all about. Producers at the lowest cost in any one section of any economy are those that will survive in any area of the world.

It is not because we grew sugar cane two hundred years ago, we should do so now. The truth is that sugar cane was replaced by beet sugar 100 years ago and many of the farms in North America and Europe that produced beet sugar, no longer produce beet sugar because even that has become uneconomical. Sugar is produced in other areas and very largely now in Brazil where they have a low-cost environment. He must, therefore, understand that the supply in the world moves across boundaries to the lowest economic supplier or producer thereof. He should not, therefore, lament that we do not make molasses anymore. To do that is to shackle the decent and honourable workers of Caroni (1975) Limited to a system that is over 100 years old. That would be to discriminate against them, saying, “You have no part in the economy of the 21st Century”—and that would be wrong.

He went on also to talk about the fact that we are exporting doctors—we educate them, train them and export them out of the country. As a government in a free market system, we can do nothing about the exodus of skills. The truth is that we are not alone in suffering from what has been called a brain drain in a number of sectors. We do suffer from a brain drain. If our economy is such that our doctors do not earn the type of income that they expect when they graduate, they are free to migrate—as they do. This happens all over the world.

What has happened here has happened in Cuba. Cuba finds itself in a situation where there is an abundance of doctors, but they do not earn what they would like to earn and, therefore, they are in a position to migrate here and seek a better opportunity, in the same way that our doctors have gone to the UK or wherever they go. That is what happens in the world. There are many doctors who have come from Nigeria and different parts of Africa for exactly the same reason—they have found opportunities here that they could not find within their own shores. Because we needed that skill, we opened our doors and said they could come here.

The same is true with nursing. We train well over 500 nurses a year. Next year we will be training even more—the programmes are being ramped up. As fast as we train them, the UK and Canada cream them off and take them because their citizens do not want to work doing that kind of manual job for that kind of income, but our workers will

do that. There is nothing wrong with that. I have just returned from an extensive stay in London and saw exactly the same thing. Almost all the workers in hotels and restaurants—that level—are not British. They have come very largely from Eastern and Southern Europe, from economies that are not as strong as the English. They, therefore, come to England, work as waiters and for them they are making a lot of money, which they send home. They find that that is a good deal. It is a good deal for them. They are better off financially. That is what the global marketplace is all about. That is where we are. We can shut our eyes, put on blinkers and say that we are not going to take part in the global economy or we are.

In 1994, when we liberalized the exchange regime and opened up the market, we said we would be a part of the global economy and suffer the benefits and the burdens of what comes along. This Government and the one before us subscribed to the same policy and tried to initiate strategies that would defend us as far as possible from the ravages of those who would try to exploit us. That is what we do. Therefore, the myopia expressed by Sen. Dr. Gopeesingh is tragic. It is tragic that a learned man like that could stand and talk such frivolous nonsense. It has no place in this Chamber.

He went a little further to talk about some statements that he attributed to me, when I was talking about the racial imbalance at the University of the West Indies and the Trinidad and Tobago Institute of Technology (TTIT). Someone else was trying to make a volatile issue of the fact that about three-quarters of the students at both UWI and TTIT were Indo-Trinidadians and only one-quarter or one-third of them were Afro-Trinidadians. That individual wanted to make a racial issue out of it. Not wishing to be drawn into an argument that would tear at the very fabric of our society, I simply pointed out that the profile of the applications mirrored the acceptance rate, in order to try to calm the waters.

Madam President, Acting Sen. Dr. Gopeesingh sought to congratulate me for my statements. I would accept it only to the extent that I tried to pour oil on troubled waters, but my answer was not complete. I want to make it very clear what the reality is behind what is taking place at the University of the West Indies and at TTIT. Ask yourself: If the two major ethnic groups are equal in size and everybody is going to high school, how is it then that two-thirds or three-quarters of them are applying and going to university and TTIT and only one-third of the other side is going? Why is that happening? Is someone going to suggest that Indo-Trinidadians are smarter, more intelligent than Afro-Trinidadians? I have not heard anybody say that and I would certainly not be the one even to begin to think that. Therefore, we would have to dismiss that. How and why is it then that we have this ethnic imbalance? What could it possibly be?

Madam President, if you look at what has happened over the last 10 years—a little more than 10 years—in the tertiary education system, we might find an answer. The

Equal Opportunity Legislation
[SEN. THE HON. D. MONTANO]

Tuesday, May 25, 2004

answer may very well be economic. It is very likely that the answer is economic. The Afro-Trinidadians have been disenfranchised from tertiary or higher education because of the cost of going to UWI and TTIT. That gives a different explanation. Why would it then be uneconomic? How is it then that the Indo-Trinidadian can afford, but the Afro-Trinidadian cannot afford? How has that come about? If that is so, what is the Opposition talking about in terms of discrimination on the part of the Government? What are they talking about when there is one major group that has empowered itself to the extent that it can afford higher education and the other half cannot?

I am not saying that anybody should have a greater right. Nobody is suggesting that. It is the concern of this Government that if we have a situation where clearly the results are out of balance, then we must find a way to make it balance. What is the cause of the imbalance in the first place and how do we make it balance?

Madam President, consider what the Opposition did during their regime and ask yourself who has the motives that are not pure. They came out with a financing plan for higher education called the Dollar for Dollar plan. That did not change the profile of who was going to university, it merely exacerbated the same issue because you needed a dollar in the first instance to access the second dollar. If you did not have the first dollar, you were disenfranchised.

Madam President, I would ask you, whose motives are clear and pure in this business? When you look at what the previous administration did, you can make certain allegations. I do not wish to go there. I would let the population decide for themselves—as they have already done—whether they were biased or whether we are biased. They will decide again in the fullness of time. They will have the opportunity.

Again, let me point out what happened with regard to higher education. The UNC established a quasi-university in the heartland of Caroni in the middle of the cane fields. If you are driving past, you do not know it is there until somebody says that is TTIT. Then you say, what then is TTIT? Then they will tell you. They funded this with millions of dollars that they squeezed out of some of the oil companies and the Treasury. While they were doing all that, they squeezed John S. Donaldson Technical Institute, San Fernando Technical Institute, the traditional schools in San Fernando, the Eastern Caribbean Institute of Agriculture and Forestry (ECIAF) and the National Institute of Higher Education (Research, Science and Technology) (NIHERST). That is what happened.

When we came into government, the most astonishing thing was that there was not a working toilet on the John D campus for the students. [*Interruption*] That is when we got there. Somehow, using Sen. Mark's logic, we were responsible for that; but you go to TTIT and you see state-of-the-art, everything brand sparkling new and there is not even

one working toilet at John D—not even a working one. If John D were in a workable state—a state of some decency—you could say there was equity in the system, but clearly, if you look at it, there was inequity in the system. It could not be anything else.

They claim that somehow we are the arbiters of the downfall of John D. This Government is going to pump hundreds of millions of dollars into what they then made into the College of Science, Technology and Applied Arts of Trinidad and Tobago (COSTAATT) and it will be a part of the new university. It will be a college and students who have no financial resources will be able to access tertiary and higher education under this administration. No one will ask: What is the colour of your skin, the texture of your hair, your religion or your sexual preferences? If you have been disenfranchised for whatever reason, you will have an opportunity.

That is what this administration is all about. That is what we are trying to do. Is that racialism—trying to ensure that everybody has equal access and equal opportunity? The opportunities are there for everyone. Whether you take advantage of them or not is a matter for you. I find it difficult and disappointing to find an Opposition that has nothing to say about the policies of the administration except to say that it is discriminating.

Madam President, I do not want to bring up this argument at this point, because I do not know that this Government has any specific policy on the matter, but in the last debate on this Act, whenever it was in the Senate, I remember being approached by a number of groups that were homosexual who said that the so-called Equal Opportunity Act does not deal with homosexuals in the country. It just left them out. It does not deal with the issue of gay marriages and so on. I am merely pointing out that there are gaps in the Act as it was passed and all the rhetoric that we have been hearing on the side of the Opposition really is rhetoric for no purpose other than short-term political gain and that is distressing and disappointing.

Sen. Prof. Deosaran: Madam President, I am enjoying the very penetrating contribution by the Minister. I just want to seek his assistance. Is he saying that he would like to see provisions to protect homosexuals and other gay rights in the particular legislation?

Sen. The Hon. D. Montano: I stand here as the member of a government and a party. I do not stand here in my own right and, therefore, I do not venture personal opinions. I speak on behalf of the Government and the party and I said clearly that the Government has no position that is clearly articulated on that issue as yet. *[Interruption]* I will repeat. There are gaps in the original Act because it did not deal with that. Therefore, all this sanctimonious rhetoric on the part of the Opposition is just that and cannot be taken with any real seriousness.

I think my colleague Sen. The Hon. Abdul-Hamid dealt quite effectively with much of what Sen. Dr. Kernahan said. There is one thing that she said that I would like to deal with. She was saying that things have come to a point where the Government cannot be criticized and that it does not accept or tolerate criticism. Madam President, through you, I would like to inform the good Senator that nothing is further from the truth. This is a place where we all have the opportunity to say what we wish and the purpose of this place is to hold the Government accountable to the people. Therefore, they are perfectly free to criticize and we are perfectly free to respond in the manner we wish. This is what it is all about and she should not be intimidated or threatened.

I remember sitting almost where she is sitting now and hearing from the then Prime Minister that as a member of the Opposition I was an enemy of the State. Those were the exact words. At that point, I felt threatened. I said, I have done no wrong; I have done no crime, how could I be an enemy of the State? I might be an enemy of the UNC party, but how could I be an enemy of this State?

When a prime minister speaks for the government, he speaks for the people and somehow I was an enemy of the people? That could not be right. *[Interruption]* He said that the PNM were enemies of the State. How could that be? Thank heavens I heard no knock on the door in the middle of the night. There were no heavy jackboots marching outside my door. That never happened. I was left alone, I was happy and the democratic system that we know and love continued. While I did feel threatened for a little while, I got the hang of it.

She must not be so hysterical to think that the Government does not accept criticism, but the good Senator must know that the criticism must be well founded and must not merely be theatrical and fluffy. It must have some substance to it. When she makes arguments that are of substance, she would find that the people would listen. *[Interruption]* She went so far as to say that everybody would have their opportunities or had it already. *[Interruption]*

Madam President: Everybody will have their opportunity or had it already. Please continue!

Sen. The Hon. D. Montano: She went so far as to say that this is a fascist regime. I wonder if the good Senator knows what a fascist regime looks like or what it is. Does this regime resemble Nazi Germany? *[Interruption]* She thinks so. Make your case.

We have a Constitution that does work—everybody knows that—and there are lines drawn in the Constitution, and they, having been in government, know that the government is unable to interfere with certain processes. Public servants know what the boundaries are and will not accept that kind of interference. Notwithstanding that, when

legitimate charges are laid, they claim it is politically inspired, as if the police are stooges of the PNM administration. [*Interruption*] I rest my case.

I would like to return to Sen. Dr. Kernahan and to implore her to bring her arguments and criticisms of the Government and deal with the policies. Let us talk about some of the policies. Does she want to talk about education? Let us deal with the policies in education. Does she want to talk about health care? Let us talk about the policies in health care. Does she want to talk about national security? Does she want to talk about crime? We will talk about that. But to make hysterical statements that the Government is fascist, is nonsensical. It adds nothing to the arguments.

One of the things I learned when I was very young—and when I was in Europe I was reminded of it—is a Latin expression, which I cannot quote, but the translation is roughly this: Those who do evil, think that everybody else is evil.

I thought that was a very interesting statement. You hear the allegations of evil from that side. Somewhere along the line, Sen. Mark refers to us as an evil government every time he stands up, whether it is page 1, page 2 or page 3. He calls us evil, but do you know something? That statement is true. If you doubt the wisdom of what I have just said, think about this one because this is true: A thief thinks everybody else is stealing from him. When you think of that, then you realize the guy who is doing evil thinks everybody else is evil.

4.15 p.m.

Madam President, we have come to talk about an Act that is clearly unconstitutional. We were advised of the fact that it really cannot work and that it would be improper to promulgate this into law. We took and accepted that advice. It was challenged in a court of law. The court, at first instance, said clearly it is unconstitutional. Of course, it can be appealed. The evidence, and when you read the wording of the judgment, is so crystal clear that—

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

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

Question put and agreed to.

Sen. The Hon. D. Montano: Madam President, if the Government were to promulgate the Act, we would be doing something that is inherently illegal and unconstitutional. When a Government gets that kind of advice from its attorneys, it

Equal Opportunity Legislation
[SEN. THE HON. D. MONTANO]

Tuesday, May 25, 2004

cannot turn its back on it just like that. It cannot ignore the legal advice and say: “Well, we are going to do it anyway.” That would be wrong. That is why the Act was not proclaimed. It is not rocket science.

It is interesting that we have had such an extensive debate. This is the third day of the debate, on an issue that is before the courts. When we refer to other matters that will shortly be before the court, I hope we will be given the same latitude. The legal system is complex; it can work in your favour, but it can also work against you. It is the duty of the Government, as it is the duty of all citizens, to stay on the correct side of the law. You cannot throw caution to the wind as clearly some Senators on the other side have done and broken the law willy-nilly. The Government of the day cannot be seen to be doing that. The Government of the day must be responsible and respect the Constitution and ensure that it does not do anything that would infringe upon the rights of citizens.

With that, I would just leave it for Senators, when it comes to the point of having to take a vote on this matter, to recognize the fact that the court, in the first instance, has ruled on this matter. I would have thought that we might have had a change in the wording of the Motion. We have had no change. I would like Senators to realize that we are really talking about something that is finished. It is a dead issue. We have to advise you that we cannot, under the circumstances—with the legal advice that we have had and given the fact that the court has ruled on this matter—at this point, proclaim this Act and make it working law.

Madam President, I thank you very much.

Madam President: I think at this point—

Sen. Seetahal: I want to make my 10 minute contribution.

Madam President: Ten minutes? All right.

Sen. Dana Seetahal: Thank you very much, Madam President. I do not have to speak again. As we all know, the Equal Opportunity Act was struck down, as has been indicated over and over by previous speakers. The issue here appears to be a moot one, except that there is the possibility, of course, that on appeal, it could be held to be constitutional. We could turn this around to suggest that the Government of the day could actually make it its business to pass a constitutional Equal Opportunity Act.

Under the current law, it is only the State that has an obligation not to discriminate. The Equal Opportunity Act was meant to put that onus on private citizens. I understand that a previous speaker made an argument for affirmative action. I was not here. The last

speaker, it would seem to me, did not appear to share the view that there should be affirmative action. I think affirmative action in this context would be a dangerous move.

When I was a Common Entrance student, some years ago—I came from a background, like some other Senators, that was not a wealthy background. At that time there was no thought that I could not benefit through working hard in the Common Entrance Examination, or I could not go, as I did, to a good high school of my first choice and take the GCE O’level Examination. I then went on my way to a university. It has always appeared to me that there was the opportunity for free education and the opportunity to move up in society. In the past 15 years, probably by the increased cost of education, in the tertiary sense, there has been a possible appearance of denial of equal opportunity because of that. Since then, there were measures put in place. It appears to me, again, that all peoples, who want to, can access an equal opportunity in education.

Insofar as employment is concerned, in the society we live in, in general, the education that you have determines your access to employment. Up until 25—30 years ago, to get beyond a certain level in certain areas, may have had something to do with contact. It may have been that those who enjoyed the economic monopolies in certain areas could grant the persons who did not have the education like others, certain opportunities. You found that within a private sphere, there may have appeared to be a denial of opportunity to others. That is a glass ceiling that you find in any society, where you have an uneven distribution of wealth.

I think we have been moving away from that, because people are becoming more conscious of these things. When we are looking at what is happening globally, we are concerned to appear to be treating all our citizens equally. What I have a problem with now in Trinidad and Tobago, in 2004, is not so much the opportunities or the threat of one group or the other by the authorities, but the perception among members of the public that there is this battle going on between the races. There is this “we” and “they” and if you shift, as is seen to another party, you are betraying that race and you ought to be a mole on this side and report it to the other side.

There is also, it seems, the perception among some people that they must hate the other. I get these emails that are copied. I put them in my delete basket. Sometimes I check my delete baskets to delete permanently. I would see these emails from a person whose name I would not call. Let us say ND. He writes these things. He feels so comfortable going to the Central Bank and Unit Trust, because his people are there. He says his heroes are, hear this: the Prime Minister, Abu Bakr and somebody else. That shows you the nature of the individual. He thinks that horrible word “Indian” should be deleted from Arrival Day. That is a sort of pure racist hate.

Then there is the other side. There are some women, and one in particular, who belongs to a so-called anti-discrimination group, who talks about these “black” criminals. That is the kind of garbage and filth that is being spewed somewhere in the society. It cannot be that it is just by chance that these people are bold enough to send these emails to you and me. It cannot be that. It seems to me that there is some kind of element encouraging this nonsense. That is what I think we need to deal with; whether it is through the broadcast media, where we hear people propagating these kinds of things; I do not see it in the print media so much, I suppose because of fear of sedition and the like. There may be libel if persons’ names are called. There is this underlying feeling that you did not have before. I am not saying that we did not have racism and discrimination. Maybe it was not out in the open or maybe it was latent and was going to come forth.

I thought that this was a good thing; that it would come forth and we would stamp it out and people would not be looking at their friends and in Parliament and saying: “Let us see how many Indians there are on the Independent Bench or let us see how many Africans there are on the Opposition Bench” and that sort of thing. People do that and they talk about it in those talk shows. It is supposed to mean something. I do not know what. In this country they are equating race with something. If you are in the right race, that is their perception, you would get it all. This is arrant nonsense! If you look at the Government: the people who hold ministerial and other posts, you do not see that kind, if I may be so bold, of racial sharing of the power. I do not think that you see it in the Opposition either. There is this perception. It seems to be coming forth. It is coming forth boldly and maliciously. I think the Government of the day has a duty to the country and the right-thinking people, probably 95 per cent of them in the country, to stamp it out with the help of all of us.

Of course, there are other problems. I think that adds something to this whole situation with crime. People should start saying: “How many Indian victims? How many Indians were raped? How many Africans? How many marched in Penal? You do not see marching if it is a black person killed.” We are hearing this sort of nonsense. We need to confront it and look at it and deal with it somehow. I cannot suggest how. If I thought about it some more, maybe I could have an opinion. We must realize that we do not want it to go into the school system or the universities. Although the people at the universities tend to be broadminded. There you see more mixed relationships in all ways.

I wanted to make that contribution. It is not strictly Equal Opportunity, in the narrow sense, but it pertains to it in a wider sense. I think it is necessary for the development of our country today. Thank you very much.

Madam President: Hon. Senators, this is the time we will take our tea break. The Senate is suspended until 5.10 p.m.

Adjournment

Tuesday, May 25, 2004

4.30 p.m.: *Sitting suspended.*

5.10 p.m.: *Sitting resumed.*

ADJOURNMENT

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate do now adjourn to Tuesday, June 01, 2004 at 1.30 p.m., at which time we will debate the Bill to re-enact and revise the laws respecting Weights and Measures and to give effect to the International System of Units (SI Units).

Madam President: Hon. Senators, there are two matters to be raised on the Motion for the adjournment of the Senate.

Demolition of Homes at Union Hall, Cross Crossing San Fernando

Sen. Sadiq Baksh: Madam President, I rise to speak on the Motion which reads as follows: The demolition of 40 homes at Union Hall, Cross Crossing, San Fernando, resulting in the destruction of all sustainable essentials of life inclusive of food, clothing, shelter, medication and all other earthly possessions of the 40 families.

Madam President, I raise this particular matter because there appears to be some misunderstanding as to what should have taken place and what actually took place. I am not certain whether the Minister knew of it, or whether it had the approval of the Minister. I am not certain about that. It is for that reason, I have chosen to bring this matter to your attention.

Further doubts came about because after the destruction of the 40 homes, we found a very sympathetic Government. Other Ministers came to the rescue. Sen. Yuille-Williams was leading the charge, in terms of bringing immediate relief. On behalf of the 40 families, I want to express my own gratitude to her. Had she not arrived on that fateful afternoon families would not have been able to eat after what took place. All their food, clothing and shelter were destroyed. Because of her intervention, they got something to eat. Because of her intervention, they got somewhere to sleep. They got cots from the army. They were very grateful.

I did not bring this matter today to show up the Government in any bad light. I thought personally that some sort of misunderstanding took place. I am further grateful that the 40 families, since then, were well taken care of by the fine efforts of Sen. Yuille-Williams. Up till this morning, when I passed there, the 40 families were receiving meals from the army. They are housed in a pavilion. Albeit, under conditions which, I am sure, the hon. Minister would not like to continue.

Demolition of 40 Homes at Union Hall
[SEN. BAKSH]

Tuesday, May 25, 2004

Notwithstanding that, there are some other issues surrounding the residents there. The homes of the 40 families were destroyed. There are other houses that got a reprieve mainly because, or possibly, the Minister intervened and instructed them not to break down the rest or when it came to his attention, he discontinued it or stepped in. I am also aware that the authority that broke down those houses is an autonomous body. Being a previous Minister of Housing, I am aware that the National Housing Authority (NHA) could go ahead and do these acts without the knowledge of the Minister. They have the authority and the responsibility. I am not here to cast any aspersions on the Minister to tell them what to do. I know, as a previous Minister, that they had the authority and autonomy to do that.

It is setting a trend that we cannot allow to happen. I would like the Government to take note that these agencies that come under the respective government ministries, the Land Settlement Agency, the National Housing Authority (NHA) and all other agencies, including UDeCOTT and all those charged with the responsibility for the delivery of housing in Trinidad and Tobago, should not have to wait for the Prime Minister to tell them that they should put on a human face.

Madam President, you would recall on the last occasion I brought up the point about what took place at Wallerfield. I suggested that, in the interim, we must find a place for low-income citizens that are homeless, so that they would be able to participate in the Government's housing programme.

The Government enunciated a plan to construct 10,000 houses on a previous occasion. I wish them luck. I would love them to be able to deliver 10,000 houses annually. Whether it would cost \$1 down or not, that is not the issue. Once they provide 10,000 houses, I am convinced that three years later we would have 30,000 houses and we would not see these ghastly acts using an excavator.

I cannot imagine what came into your mind or other people's minds when they saw these pieces of equipment breaking down the houses. The people were told that it was only at the mercy of the driver who was attempting to save some of the material. He had instructions to demolish the homes in such a way that the materials would not be recycled. That is the word coming out from the equipment operators.

It was even worse. Some of the people who accompanied the crew to break down the homes of the 40 families were people, it is alleged, who were picked up from the street: "pipers" and others. They had their knapsacks on their backs and took all the valuables that could be accommodated, from those 40 homes.

In this day and age—I am not saying that we must encourage squatting. You know my position on squatting and illegal settlements. I have made it clear that we must find a way. After we gave an amnesty in 1998, we broke down houses in terms of those that

started. We spoke of containment units. We said we should have containment units in all the state agencies that have lands. At the first sight of construction, those homes should be discouraged, discontinued and demolished if necessary, not when they are in occupancy, not when there are babies, children, schoolbooks and all the basic essentials of life. There are 251 other squatting communities in Trinidad and Tobago. They are also fearful that agencies of the State will come in and break down those houses.

I ask the Minister to shed some light on this and, if possible, give some assurance to all the spontaneous settlers that their homes will not be invaded, whether in the morning, noon or night. Do not allow citizens of Trinidad and Tobago to end up in pavilions around the country.

Madam President, I thank you.

The Minister of Housing (Hon. Dr. Keith Rowley): Thank you, Madam President. I must say I admire the tone and understanding of the former Minister of Housing. Clearly it is said that age brings reason. He is quite a reasonable man.

Development of the Union Hall site commenced in 1994. You would have heard from some of the persons affected that they have been there for 14 years. Clearly, that is an exaggeration. A site which was developed in 1994 could not have accommodated persons beyond the period 1994 to now. I have here with me, an aerial photograph taken in 1998, which shows the area having no, what the Senator called, spontaneous settlements. It was an area earmarked for proper housing development. The 1998 aerial photograph shows that. The site comprises 770 serviced lots, of which approximately 30 were reserved for commercial and residential use. Seven hundred and thirty persons were allocated lots in that area and an additional 40 persons made down payments on the rest of the lots. There is also a waiting list of persons who would like to access the development.

Sen. R. Montano: It is not a point of order. I just want to ask—

Hon. Dr. K. Rowley: There are Standing Orders. Do you have questions during a response?

Madam President: Not really. It is up to you if you want to give way.

Sen. R. Montano: Could I get a look at that photograph you are bandying about? Could I see it please?

Sen. Seepersad-Bachan: You just showed us a picture.

Hon. Dr. K. Rowley: Madam President, do I get the two minutes' injury?

Madam President: Yes.

Hon. Dr. K. Rowley: Thank you. As I was saying, 770 lots, of which 730 persons were allocated and the lots were built on. With respect to the other 40, moneys were paid down on those. There is a waiting list of persons who are desirous of accessing lots. Leases for 199 years were being issued to these persons. Eighty per cent of the site was built up. The National Housing Authority (NHA) is presently constructing houses on what we call the In Fill Lots Programme, lots that were not built on and are still vacant. We are building on these lots as part of the housing programme.

In July 2001, the authority issued letters to those persons who were in occupation of lands in an unauthorized manner in the area. They were requested to come into the National Housing Authority (NHA) to discuss their occupation of those lands. I have a copy of the letter written to the persons who were so affected. The letter states:

“It has been brought to our attention that you are in occupation of lands at Union Hall, without the required permission. You are required to come into the office on Wednesday, July 30 2001 and speak with Mrs. Cheeseman at extension 864/865.

Failure to do so will result in the Authority taking action against you to have the matter rectified.

Your cooperation is expected.”

This letter went out to those 17 persons who were there. The Senator mentioned that some houses were not affected by the demolition. It was these 17 persons who—
[*Interruption*]

Sen. R. Montano: On a point of order, Madam President. I am looking at this 1998 aerial photograph of Duncan Village, Union Hall. It is marked “site”. Looking at it, I am counting—

Madam President: What is the point of order?

Sen. R. Montano: The point of order is that the Minister has misled the Senate when he said that there were no buildings and no squatters on the site. Take a look at it yourself.

Madam President: Senator, please sit.

Hon. Dr. K. Rowley: It is my fault. I accept responsibility. If I did not give way, this ridiculous intervention could not have been met. It is my fault. I take responsibility for it.

Madam President, I was going on to say that the aerial photograph showed what was there. There were 17 persons who were in an unauthorized way. They were written to. We asked them to come in and the Authority would treat with the situation. Those

persons, during that demolition of recent time, came to the NHA and the NHA was able to make an arrangement acknowledging their presence. Those persons were not earmarked for demolition. Their units were not demolished.

Sen. R. Montano: Madam President, on a point of order. The Minister has misled the Senate. I distinctly heard him say that there were no squatters whatsoever on the site in 1998. When I looked at the photograph, I counted 17 houses. The Minister then says: “Yes, they were unauthorized.” What is unauthorized?

Madam President: Senator, please!

Sen. R. Montano: Madam President, I have to finish!

Madam President: Senator, please. I do not remember the word the Minister used. The only way we could decide on that is to get the *Hansard*, to say whether he used the word “squatters” or “houses”. He just, explained. I was waiting for his explanation.

Sen. R. Montano: No, Ma’am.

Madam President: He just explained that the 17 houses which show up, I believe, in the picture are the ones—

Hon. Dr. K. Rowley: Madam President, with all due respect, I have 15 minutes to speak to the rest of the Senate. Would you permit me? Thank you.

These 17 persons were not affected. They were not viewed as part of the problem.

Sen. R. Montano: On a point of order. I must insist on this. The point of order is this. The Minister said that in 1998, there were no squatters on the land. He said it! That is an unequivocal statement. After I stood and said: “Look at the photograph.” The Minister said that he had a photograph and he put it down.

Madam President: Do not give a speech Senator.

Sen. R. Montano: I am not giving a speech. I am trying to give an explanation of my point of order. I am trying to show you what happened. It sits ill in the mouth of the Minister to come back and say that there were squatters. Either there were squatters or there were not. That is my point.

Madam President: I am trying to say that where you may have made that point, the Minister is now coming to the point. Maybe he had not. I cannot rule that he is misleading the Senate. He is now giving an explanation of what we are seeing in the picture. Therefore, I am afraid I cannot rule that way. Mr. Minister, please continue. Let us see if we can get some sense out of this.

Hon. Dr. K. Rowley: Madam President, I presumed that the Motion related to the persons who were affected by the demolition. That was the basis of my response. I was going on to say that the 17 persons who were there came in and were treated with by the Authority and were not earmarked for demolition. Their homes were not demolished. That explains why the mover of the Motion was able to say that some houses were not affected. That was the reason for that. That was the point I was getting at.

A site visit was conducted on April 12, 2004. It was noted that 12 structures were in varying stages of construction and another 20 were newly built. That amounted to 32. The Senator spoke about 40 houses being affected. Those are the people, I quite presume, who were the basis of this Motion. In the 40 units, 12 were recent structures in various stages of construction and 20 were newly built. In fact, of those 32, a number were unoccupied, indicating that the occupation of the lands was in large part, a land grab.

While we sympathize with those persons who are desperate and would like to find somewhere to go, there was a significant element of persons laying claim to lands. The Senator talked about the Authority acting with a human face. The problem, having observed what is happening, is that structures were under construction and structures were built but empty. It was clear as to what was happening. Those 40 units were dealt with, in the manner described in the newspapers.

I brought some photographs. These photographs will show you a number of units under construction. I would ask that they be circulated first to the Independent Bench and then to the others. I brought a number of photographs of empty units. I brought these photographs to show that when it is said that the National Housing Authority (NHA) went in and carried out this Hitlerian attack on persons occupying these buildings, that is an overstatement. The majority of units were not occupied. They were either under construction or they were empty. Therefore, this matter about what has happened to all these people in the 40 units and their food and medication being destroyed, is largely overstated.

You also would have heard from the Senator about how the staff behaved. I have some photographs showing you residents actually taking apart their own units or, with the assistance of the National Housing Authority (NHA) staff, removing the valuables from the units. I ask that these photographs be circulated to the Independent Senators and other Senators on the other side. When it is said that the barbaric act took place, these pictures indicate what took place and what was there.

There is another side to the story, that is, the National Housing Authority (NHA) has been engaged in litigation with squatters on these and other sites. Therefore, in seeking to put forward this human face, as is asked for, and in seeking to conduct its business to

protect its assets, the NHA has always been advised by Senior Counsel as to how to proceed. The NHA has proceeded within the law, to ensure that when these or similar individuals take the State to court, the NHA's position is not prejudiced. I will give you an example.

Before I get there, the Senator spoke about the NHA picking up “pipers” from the streets. Again, this is another one of their exaggerations to make the thing look worse than it is. First, he said we destroyed the 40 houses and put the families under distress. That is more than what really happened. Now he is accusing the NHA of picking up “pipers” to go and do that. Madam President, that is not true at all. The team which undertook the demolition involved the Communications Specialist of the Ministry of Housing, the NHA's head of security and two in-house security officers, 11 labourers and 11 police officers from the Guard and Emergency Branch. That was the team of people who took part in this exercise. It is quite wrong for a Senator to come here and accuse the State's agency of picking up “pipers” to terrorize poor people who were living in shacks in Union Village. That is not necessary. It is not required. It is not true!

Secondly, I also want to point out that in some instances, some of the residents, realizing that the NHA was in fact going to take action, dismantled their own structure. Insofar as I mentioned the question of the NHA having to keep its position clear so that it can defend the Government's action in the court, I want to draw to your attention that a number of squatters are quite defiant. While we try to cooperate and understand their situation, they have no difficulty in taking the State to court. Let me give you an example of what is happening.

In High Court Action 157/2003, Sampson and others versus the National Housing Authority, action taken: Matter dismissed by Justice Nolan Beraux. Another example of an action: Application for leave on behalf of the NHA. The Hon. Madam Justice Rajnauth-Lee refused leave to commence judicial review proceedings. That action cost the State \$500,000. Another example—

Madam President: You are into injury time—two minutes.

Hon. Dr. K. Rowley: Thank you, I have two minutes' injury time. Another example we have is Sheldon Noel versus the others, with respect to Wallerfield, costing the State \$300,000. In most of these instances, the matters are filed on behalf of persons who claimed to be disadvantaged. They are found to have very little merit in the court. In seeking to express sympathy and empathy, I want to make the point; these actions are costing the State millions of dollars which could be used to help the same people.

Cabinet has approved action with respect to three sites in the country, where persons who qualify by virtue of being destitute, would have their circumstances improved, and

Demolition of 40 Homes at Union Hall
[HON. K. ROWLEY]

Tuesday, May 25, 2004

have access to a location with the basics for living. It is our intention to make those sites available in the not too distant future. Cabinet has approved it. In the very near future, we would have three sites where such persons can be accommodated: one in the north, one in central and one in south. That being so, we expect that persons in Trinidad and Tobago, regardless of their circumstances, would observe the laws of Trinidad and Tobago, even as they accept assistance from others and the State.

I would also like to caution my colleagues in the Parliament not to encourage people to break the law, no matter how much you feel that they need help and assistance. Help and assistance is available within the laws of Trinidad and Tobago.

LABIDCO Status Reports (Transparency of Government)

Sen. Wade Mark: Madam President, this Motion deals with the failure of the Attorney General to be open and transparent with the population of Trinidad and Tobago, by failing to disclose the contents of the status reports submitted to him by the Anti-corruption Investigation Bureau of his Ministry, with respect to LABIDCO.

It has been said by George Bernard Shaw: “Power does not corrupt man. Fools, however, if they get into a position of power, corrupt power.”

What I am going to demonstrate today is so serious and dangerous, it may require court action. It is important that we maintain and respect the conventional boundaries for important institutions in this nation. In the same way that the doctrine of the separation of powers allocates different functions to the Judiciary, adjudicating on cases; the Parliament, for law making and the Cabinet for the executive day-to-day administration of Government, so too we must observe and respect the limits and functions of other high public offices.

Madam President, you will recall, last week, in response to my Motion on the issue of the inaction and slow pace of investigations by the fraud squad of the police service, into PNM corruption into the LABIDCO fiasco, I noted that over one year and nine days have passed since the former DPP, Mark Mohammed, now High Court Judge, had instructed the police to investigate offences of conspiracy to defraud and misbehaviour in public office.

The Minister of National Security, in responding to my Motion, told this Senate that investigations had started since May 2002 on the directive from the DPP, but further disclosed, to our horror, to the nation, for the first time that these investigations were being conducted, I quote: “By the Anti-corruption Investigation Bureau of the Ministry of the Attorney General, with the assistance of Mr. Robert Lindquist.” How on earth did the

Office of the Attorney General come to be involved in this matter? The directive from the Director of Public Prosecutions, Mark Mohammed, was addressed to the Commissioner of Police and not to the hon. Attorney General. Indeed, it would have been stupid and perverse for the Director of Public Prosecutions to make such a reference, because the key players in the LABIDCO scandal are the present Prime Minister, Ken Julien, Barry Barnes and Malcolm Jones.

Sen. Jeremie: On a point of order, Standing Order 35(8). The Prime Minister is a Member of the House of Representatives and the Senator is imputing improper motives there.

Sen. W. Mark: You said that last week too.

5.40 p.m.

Madam President: Minister, please avoid—

Sen. W. Mark: I know you are anticipating—*[Laughter]*

Madam President: I am thinking of your last portfolio. *[Laughter]* Hon. Senator, all right, fine.

Sen. W. Mark: Madam President, I will be kind. The DPP would have asked the PNM to investigate itself. Why did the office of the Attorney General, Madam President, override the directive of the DPP and took control of this politically sensitive police criminal investigation. So the Attorney General is now a police investigator? We ask: Has he usurped the powers of the Commissioner of Police? No wonder Mr. Snaggs was acting and the PNM refused to confirm him. It seems as though we have a shadow Commissioner of Police who is part of the PNM. Has the Attorney General also taken over the investigation of the international drug trafficking of cocaine via diplomatic bag in the Ministry of Foreign Affairs? Maybe, yes. Are we really to expect that the PNM is to independently investigate this matter? Have we forgotten their history? They allowed Johnny O'Halloran to rape this country. Is the Attorney General now investigator, judge, jury and executioner?

Madam President, let me refer to the law to support my contribution. In section 76(2) of the Constitution of the Republic of this country, it spells out very clearly the powers and functions of the Attorney General. It says under 76(2) that:

“The Attorney General shall...be responsible for the administration of legal affairs in Trinidad and Tobago...”

Not the administration of justice. Madam President, administration of legal affairs does not involve controlling sensitive police investigations. Legal affairs means things like

Demolition of 40 Homes at Union Hall
[SEN. MARK]

Tuesday, May 25, 2004

civil litigation and legislative drafting. The responsibility of the Attorney General is always published and gazetted, Madam President. Never before in the history of our nation has the command of an investigative unit of the police service been assigned to the Attorney General so that instead of the unit reporting to the Commissioner of Police, they will now be reporting to a politician in office. *[Interruption]* You will talk later.

Madam President, he is going to interrupt my flow and I will beg for injury time.

Madam President: You will have a chance to reply.

Sen. W. Mark: He will have a chance to reply. The PNM, Madam President, we are contending, is creating a parallel police service which does not report to the Commissioner of Police, but to the Attorney General of the PNM. This is a dangerous development. Why this undermining of the political independence of the police service? Does the Government not have confidence in the Commissioner of Police to investigate corruption? Or is it that they want to protect and suppress any investigation into PNM corruption?

Madam President, the insulation of the political directorate from the police service is well enshrined in the Constitution of our Republic under sections 122 and 123. Did the Attorney General seek the permission of the DPP, Mark Mohammed, who ordered this investigation, or even his successor, Mr. Geoffrey Henderson, that his office will head these investigations instead of the Commissioner of Police? Madam President, did the DPP alter or vary the terms of the directive from DPP, Mark Mohammed? Why has the current DPP, Geoffrey Henderson, not protested this scandalous disregard for the directive of Mr. Mark Mohammed? Has the DPP written any letters to the Commissioner of Police to protest the inordinate delay in this matter? The dragging on of this investigation ordered by the office of the DPP is a scandal. The silence of the present DPP speaks volumes and I would like to ask the DPP: Why the deafening silence? Why the delay when it comes to investigating PNM corruption?

The fact that a member of the PNM controlled Cabinet and the Executive has assumed investigation into the corruption by the PNM explains why after more than two years there has been no execution.

Sen. Jeremie: On a point of order, Madam President.

Madam President: Point of order, Sen. Mark.

Sen. Jeremie: A point of order, 35(8) again. I remind you this time of the reference to other persons engaged in the administration of justice. The conduct of those persons shall not be brought into question either. The point is that the DPP is a person involved in the administration of justice and that you may not raise—

Sen. W. Mark: I asked questions.

Sen. Jeremie:—you may not raise this issue except on a substantive motion raised for that purpose. The substantive motion raised before us is an adjournment of the Senate.

Madam President: According to 35(8), it does state that:

“...Judges or other persons engaged in the administration of justice shall not be raised except upon a substantive motion...”

[*Interruption*] I know, but keep the DPP and other offices out of it. I am asking that.

Sen. W. Mark: I will raise a substantive motion on that office holder.

The fact that a member of the PNM has assumed control of these investigations, that is the Attorney General of this country, Madam President, one could well understand why to date there has been no search, no execution of warrants aimed at the PNM at this time. It is clear that what we have is a politically compliant Commissioner of Police and he seems to be unable to take charge of the Police Service.

Madam President: That is an office, Sen. Mark.

Sen. W. Mark: He is not in the administration of justice. He is the police.

Hon. Dr. Rowley: He is.

Sen. W. Mark: Okay, he is. Leave out the police commissioner.

Madam President, if you are not aware, to show you, for instance, the scandal that is taking place in this country, and the politically motivated PNM charges, only yesterday Suruj Maharaj who was terrorized by the police, was freed in the courts of this country on voter padding charges. He is only one in a series that had to be freed because the police and the PNM had no evidence to condemn and even to really properly proceed. Therefore, Theodore Guerra submitted he had no evidence and therefore he was throwing in the towel in the case of Suruj Maharaj. He will get about US \$10 million from the State, I am sure.

Could our decent Attorney General who is the pretender of the century explain to this Senate—[*Interruption*] You would respond—and this nation how a political appointee, himself, was able to overrule, undermine and virtually compromise the office by unilaterally taking over the investigation into political corruption allegedly committed by the then ruling PNM between 1991 and 1994?

Madam President, I believe that it is the first time in this country's history—I have looked at the *Gazette*; I have looked at the functions of the Attorney General under the Basdeo Panday administration; I looked at Kamla Persad-Bissessar's responsibility and

Demolition of 40 Homes at Union Hall
[SEN. MARK]

Tuesday, May 25, 2004

under statutory boards and similar bodies, nothing like the Anti-Corruption Bureau. I went to Ramesh Lawrence Maharaj's as Attorney General, nothing like Anti-Corruption Bureau under his Ministry. I went to 2001, Ramesh Maharaj again, nothing like the Anti-Corruption Bureau under his Ministry and assignment. But when I came now to Glenda Morean, the Attorney General of this country in the year 2002, they have put under the Ministry of the Attorney General of this country, who is investigating UNC corruption; the Attorney General is investigating through the Anti-Corruption Bureau, UNC corruption.

Madam President: Sen. Mark, you are into injury time.

Sen. W. Mark: Yes, about five minutes. They interrupted me for about five minutes so you have to give me five.

Madam President: You have two minutes.

Sen. W. Mark: Yes. Corruption Investigation Bureau, Anti-Corruption Squad under Glenda Morean. And when I come to my good friend, the pretender of the century, hear what I see, he is also featuring big. He is in charge of the Anti-corruption Bureau.

So I am not surprised, Madam President, that when we were told last week that a status report on LABIDCO was sent to the Attorney General, we could understand why after two years and two weeks, not a single thing has been done to investigate that matter, yet still they are fast-tracking charges against the UNC and while they know—*[Interruption]* I am saying the law must be fair and the law must be equitable.

Madam President, the critical point here is that there should be no Attorney General, whether under the UNC or the PNM, having the control of the police service to investigate acts of corruption of any party or any individual. That is the danger that I bring to your attention today and the Attorney General must give an account for this particular development.

The Attorney General (Sen. The Hon. John Jeremie): Madam President, I want to take us back to the Motion which is before us. I will read the Motion because Sen. Mark spoke to the Motion for maybe 30 seconds of his contribution. The Motion which is before us is the failure of the Attorney General to be open and transparent with the population of Trinidad and Tobago by failing to disclose the contents of the status report submitted to him by the Anti-corruption Investigation Bureau of his Ministry with respect to the LABIDCO project. That is the Motion which is before us.

The premise is that the Attorney General has a duty to be open and transparent with the population of Trinidad and Tobago. That is something which no one can argue and which I voluntarily accept. All Attorneys General as Ministers of Justice have that

responsibility. The suggestion is, however, that by failing to disclose the contents of a status report, I was in some way breaching my responsibility to be open and transparent.

Now, Madam President, the Attorney General has to weigh the competing interests of justice. Very often he has to weigh the interest of the public to be informed against the interest of the State to be able to investigate crime properly and for the interest of the individual, to be safe from an unfair prosecution. Those are the competing interests which the Attorney General, as a Minister of Justice, must weigh.

Now, what I have to say is that I have marked my ground in relation to these matters very clearly from the word go. In relation to general questions, questions of a general nature, I have provided full and complete answers to this Senate. That is to say, I have come down on the side of the public's right to know. In relation to specific investigations, I have consistently refused to disclose the status of investigations to this House, even when it has cost the Government in political terms.

Sen. Baksh raised a general question relating to the expenditure of sums on—a general question relating to the expenditure of sums with respect to the Lindquist investigations. I answered those questions. Those questions were general in nature. When the questions were focused on the Piarco project, I refused to answer the questions.

I am going to be consistent this afternoon. Despite the goading of Sen. Mark, I am not going to speak to the status of any ongoing investigation. That has been my policy from day one.

Now, Madam President, I want to draw to your attention a matter which is unsavoury, but which needs to be brought to your attention and to the public's attention. That is to say, there are questions which have been asked in this place which are, or have been designed to elicit answers which, had I provided those responses, the State would have been in a disadvantageous position today in relation to prosecutions, pending prosecutions and actual prosecutions. And I will not allow the cloak of the Senate to be used to frustrate the administration of justice. [*Desk thumping*]

Sen. R. Montano: No. Madam President, on a point of order, imputing improper motives.

Madam President: Imputing improper motives to?

Sen. R. Montano: On us! Because the Attorney General could only be referring—the only questions that I am aware of that have been asked in this Senate of the Government have been questions asked by the six Opposition Senators.

Now, the Attorney General cannot stand up and say that we were looking to pervert the course of justice by asking questions or to elicit certain answers to direct the prosecution. It cannot be right. [*Crosstalk*]

Hon. Senator: He did not say that.

Sen. R. Montano: You, be quiet.

Madam President pounds gavel.

Madam President: Please, please. If, Attorney General, you made the aspersion that questions were asked—I did not hear you—to pervert the course of justice, then— If we can get a copy of the *Hansard*, I will make my ruling then. Continue.

Sen. The Hon. J. Jeremie: Thank you, Madam President. I was just about to wrap up. So the point is that I shall not allow the cloak of the Senate to be used to conceal, to be used to frustrate the prosecutorial process. I shall not allow it.

Sen. R. Montano: No. No, Madam President, point of order. That has to be wrong! On a thousand years, that has to be wrong!

Madam President: What is the point of order? Do not shout at me, Senator.

Sen. R. Montano: Imputing improper motives!

Madam President: Do not shout at me, Senator.

Sen. R. Montano: I am not shouting, Madam President. I am not shouting. I am trying to be heard and I am saying that what he has just said there is imputing improper motives. If he can say those sorts of things then I would be able to say it next time and believe me, I would say it because that is wrong.

Madam President: Sen. Montano, there is no need to shout. I have told you that.

Sen. R. Montano: I am not shouting.

Madam President: Really? Is that your normal tone of voice?

I am afraid that I do not think that the last statement of the Attorney General was imputing improper motives. I am still waiting to rule. Wait, Mr. Attorney General. If what you said is what he actually said, and that is that the Members of the Opposition were using the Senate to pervert the course of justice, then I would certainly rule that as being imputing improper motives. [*Crosstalk*]

Sen. The Hon. J. Jeremie: Thank you, Madam President, for your sage ruling. [*Interruptions*] As Attorney General, I have a supreme duty to ensure the preservation and maintenance of the rule of law and I shall discharge that duty without fear or favour. [*Desk thumping*] I shall continue this afternoon with my policy which I have marked out from the start, that is to say, to speak to general questions and to refuse to speak to specific questions which have a tendency, or which can lead to a derailing of the prosecutorial process. [*Desk thumping*]

Thank you, Madam President.

Madam President: I will get a copy of that. My ruling stands that if the Attorney General used those words, then I am ruling it improper motives. When we get the *Hansard* we will verify that.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.02 p.m.