

Leave of Absence

Tuesday, June 07, 2005

SENATE

Tuesday, June 07, 2005

The Senate met at 1.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Madam President: Hon. Senators, I have granted leave of absence from today's sitting of the Senate to Sen. The Hon. Joan Yuille-Williams and Sen. The Hon. Knowlson Gift who are out of the country.

SENATORS' APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency DR. LINDA SAVITRI BABOOLAL,
Acting President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

/s/ L. Baboolal
Acting President.

TO: MRS. JOAN HACKSHAW-MARSLIN

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

NOW, THEREFORE, I, LINDA SAVITRI BABOOLAL, Acting President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, JOAN HACKSHAW-MARSLIN, to be temporarily a member of the Senate, with effect from 7th June, 2005 and continuing during the absence from Trinidad and Tobago of the said Senator Knowlson Gift.

Given under my Hand and the Seal of the
President of the Republic of Trinidad
and Tobago at the Office of the
President, St. Ann's, this 2nd day of
June, 2005.”

Senators' Appointment
[MADAM PRESIDENT]

Tuesday, June 07, 2005

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: MRS. MAGNA WILLIAMS-SMITH

WHEREAS Senator Joan Yuille-Williams is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MAGNA WILLIAMS-SMITH, to be temporarily a member of the Senate, with effect from 31st May, 2005 and continuing during the absence from Trinidad and Tobago of the said Senator Joan Yuille-Williams.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 25th day of May, 2005.”

OATH OF ALLEGIANCE

Senators Joan Hackshaw-Marslin and Magna Williams-Smith took and subscribed the Oath of Allegiance as required by law.

CONDOLENCES (Mr. Mootilal Moonan)

Sen. Wade. Mark: Madam President, former Senator Mootilal Moonan has passed away. I know it is the tradition and practice in this honourable Senate that when a former Member of Parliament passes away, we would pay some tribute. So I thought, having regard to the fact that he was buried last Sunday, this is the most appropriate time for us to record our appreciation for his life. I just wanted to draw that to your attention:

Madam President: We can do it now if we are prepared to so do.
[*Interruption*] We will do it after the question time.

Petition

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PETITION

**Dr. Kirk Meighoo, Novack George,
Peter Hanoomansingh and Afra Raymond**

Sen. Prof. Kenneth Ramchand: Madam President, I wish to present a petition on behalf of Dr. Kirk Meighoo, political analyst/lecturer; Novack George, IT specialist, Peter Hanoomansingh, writer/researcher, Afra Raymond, chartered surveyor, and others of like disposition.

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

Petition read.

PAPERS LAID

1. Annual audited financial statements of Point Lisas Industrial Port Development Corporation Limited for the year ended December 31, 2004. [*The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the National Institute of Higher Education (Research, Science and Technology) for the year ended December 31, 2001. [*Sen. The Hon. C. Enill*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Industrial Relations Charitable Fund for the financial years ending December 31, 1974 to 1997, the financial period January 01, 1998 to September 30, 1998, the financial years ending September 30, 1999 to 2004 and the period October 01, 2004 to January 04, 2005. [*Sen. The Hon. C. Enill*]

ORAL ANSWERS TO QUESTIONS

**National Housing Authority Housing Project
(Green Street, Tunapuna)**

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

- 69.** (a) With respect to the National Housing Authority (NHA) Housing Project located at Green Street, Tunapuna, could the Minister of Planning and Development provide this Senate with:
- (i) a detailed status report on the project;
 - (ii) a list of the firms that tendered for the project and the details of their tender price;

- (iii) the name of the contractor to whom the contract was awarded and the tender price; and
 - (iv) a detailed breakdown of expenditure incurred as at March 23, 2005?
- (b) Could the Minister also inform the Senate of:
- (i) the number of houses and/or apartments to be constructed; and
 - (ii) the number of houses and/or apartments that have been completed as at March 23, 2005?

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I have been advised that the answer to this question is not yet ready. I will seek a deferral of one week.

Sen. Mark: Madam President, we have been very, very patient. Our patience has run out completely. We got a commitment from the hon. Minister, the Leader of Government Business that he would require a week.

Madam President: Hon. Minister, I think you are aware that this question has been deferred about four times. We would like to get the answer, maybe next week.

Sen. The Hon. Dr. L. Saith: Madam President, I shall convey the sentiments to the Minister.

Madam President: So one week, Minister?

Sen. The Hon. Dr. L. Saith: I said I would convey those sentiments to the Minister.

Madam President: So you are asking for one week?

Sen. The Hon. Dr. L. Saith: Yes.

Question, by leave, deferred.

**Caroni (1975) Limited
(Training of Former Employees)**

80. Sen. Sadiq. Baksh asked the hon. Minister responsible for Caroni:

Could the Minister inform this honourable Senate:

- (a) How many former Caroni (1975) Limited employees applied for training;
- (b) How many were approved for accessing training;
- (c) How many former employees completed their training and the name of the institution providing the training;
- (d) The cost of the training provided to former employees?

The Minister in the Ministry of Finance (Sen. The Hon. Christine Sahadeo): Madam President, Government approved the Post Caroni (1975) Limited, A Comprehensive and Integrated Development Plan which was laid in the Senate on January 18, 2005. This plan deals with major issues including Government's retraining and retooling programme, which has been put in place to equip Caroni's former employees to take advantage of opportunities presented by the global economy, in particular to participate in the expanding manufacturing and energy sectors where the demand for high value skills is outstripping supply. *[Interruption]*

Sen. R. Montano: What does that have to do with the question?

Sen. The Hon. C. Sahadeo: Of Caroni's 9007 employees who participated in the enhanced VSEP, 1,137 were monthly paid and 7,870 were daily paid. Government is committed to the retraining and retooling of Caroni's former employee base, which represents a critical component of the plan of action to ensure that the areas vacated by Caroni become a catalyst for growth and development. Government has committed \$20 million to Caroni for this exercise.

As at April 30, 2005, training providers have offered 45 technical courses and 24 agricultural courses to the former employees of Caroni (1975) Limited. The number of former employees who applied for training as at April 30, 2005, was: monthly paid, 739; daily paid 3,641; a total of 4,380. The number of former employees who were approved for accessing training was monthly paid, 739; daily paid, 3,641; a total of 4,380. *[Desk thumping]* The number of former employees who completed their training as at April 30, 2005 was monthly paid, 278; daily paid, 1,659; a total of 1,937. *[Desk thumping]*

The names of the 46 institutions providing the training are as follows:

1. Air Condition and Refrigeration Industries Association
2. BorderCom International

Oral Answers to Questions
[SEN. THE HON. C. SAHADEO]

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3. Caribbean Institute of Quality
4. Central Computer Foundation
5. Central Technology Centre
6. CHESS
7. Cipriani College of Labour & Cooperative Studies
8. Claxton Bay Development Committee
9. College of Science, Technology and Applied Arts of Trinidad and Tobago
10. Inter American Institute for the Cooperation on Agriculture
11. Institute of Banking
12. Institute of Broadcasting Careers
13. Institute of Tertiary Tutors
14. Institute of Training and Development
15. Marine Safety
16. Metal Industries Company
17. Ministry of Agriculture, Land and Marine Resources
18. Ministry of Science, Technology and Tertiary Education—Division of Retraining for Displaced Workers
19. National Energy Skills Centre
20. OSHE Consultants
21. Professional Interior Design Limited
22. Professional Multimedia Consultants
23. RBTT Roytec
24. Safety, Health and Environment Services Limited
25. Safety Management International Company Limited
26. SafeTech
27. School of Accounting and Management

28. School of Business and Computer Science
29. School of Practical Accounting and Accounting Services
30. Small Engine Specialist
31. Southern Academy of Accounting
32. St. Kevin's College
33. St. Mary's Tuition Centre
34. Techsafe Training and Consulting
35. TRAINSAFE Limited
36. Trinidad and Tobago Aquaculture Institute and Conservation Centre
37. Trinidad and Tobago Crane Training and Inspection Bureau
38. Trinidad and Tobago Organic Agricultural Movement
39. Trinidad and Tobago Registered Nurses Association
40. University of the West Indies
41. University of Trinidad and Tobago
42. Upper Level Educational Institute
43. UWI—Institute of Business
44. UWI—School of Continuing Studies
45. Van Alstons Group and
46. Your Investments Limited.

The cost of training provided to the former employees as at April 30, 2005, stood at \$11,418,179.81.

Thank you, Madam President.

**Ramgoolie Trace, Curepe
(Electrical Infrastructure Works)**

77. Sen. Wade Mark asked the hon. Minister of Housing:

With respect to the National Housing Authority (NHA) Housing Project located at Ramgoolie Trace, Curepe, could the Minister provide this Senate with:

- (i) the original contract price for the electrical infrastructure works;
- (ii) the revised scope of works for the electrical infrastructure and the estimated cost? and
- (iii) the expected dates of commencement and completion of this phase of the project?

The Minister of Housing (Hon. Dr. Keith Rowley): Madam President, the original contract price for the electrical infrastructure works at Ramgoolie Trace was \$1,023,600. The revised designs for the electrical infrastructure work are not yet complete, therefore, there is no revised estimated cost, at this time. The expected commencement and completion dates for this phase of the project are June 2005 and January 31, 2006, respectively.

Sen. Mark: Madam President, is the Minister in a position to provide us with some estimated time frame for the revision of the scope of works for the electrical infrastructure? Is he in a position to tell this honourable Senate what is the possible time frame?

Hon. Dr. K. Rowley: Madam President, I thought I did that and I am in no position to give any other information on this project. Matters relating to dates, estimates, quantum and moneys require research, so I am not in a position to answer that kind of question. I thought the third part of the question did, in fact, indicate that we expect that between June of this year and January of next year to be the period of time we will have the project completed.

**Ramgoolie Trace, Curepe
(Roads, Drains, Pavements and Fencing)**

78. Sen. Wade Mark asked the hon. Minister of Housing:

With respect to the National Housing Authority (NHA) Housing Project at Ramgoolie Trace, Curepe, could the Minister inform this Senate of:

- (i) the original tender price for the roads, drains, pavements and fencing?
- (ii) the revised/re-designed scope of works and estimated cost for the roads, drains, pavements and fencing? and
- (iii) the expected dates of commencement and completion of this phase of the project?

The Minister of Housing (Hon. Dr. Keith Rowley): Madam President, with respect to this same project, the original tender price for roads, drains, pavements and fencing was \$5,102,588.49. The redesigned scope of works for roads, drains, pavements and fencing has not as yet been completed. In this case, the project is expected to commence in June 2005 and completed in January 2006.

Sen. Mark: Is the Minister indicating to this House that this revised period for the expected completion of the said project will, in fact, be stuck to or would we have another revision in the not too distant future?

Hon. Dr. K. Rowley: Madam President, I have given this Senate the best information available at this time; it is our best estimate. I have no reason to believe, at this time, that these dates will not be kept. However, if circumstances turn out that there are changes, then that information would be made available as and when that happens. [*Interruption*]

Madam President: Question No. 81, Sen. Mark.

Sen. Mark: Question No. 81, to the hon. Minister of National Security. [*Interruption*]

Madam President: Do you want us to move on while you find it?

Sen. Joseph: Yes, Madam President.

**Industrial Gases Limited
(Savonetta Plant Incident)**

84. Sen. Basharat Ali asked the hon. Minister of Labour and Small and Micro-Enterprise Development:

- (a) Could the Minister advise whether an official investigation has been carried out on the incident in late February, 2005 at the Savonetta Plant of Industrial Gases Limited which resulted in the death of Shivam Harrylal? If so, who were the members of the investigating team, their respective positions and affiliations?
- (b) Has any such investigation been completed under the aegis of the Ministry? If not, what are the reasons for non-completion and what is the expected completion date?
- (c) If yes, what are the findings with respect to the incident itself, the cause and the measures taken or to be taken to prevent a recurrence?

- (d) Are any parties culpable for this fatal incident and what action, if any is being taken against any such party or parties?
- (e) Would the Minister make available to this House the completed report of the investigating team? [*Laughter*]

The Minister of Labour and Small and Micro Enterprise Development (Sen. The Hon. Danny Montano): Madam President, I am authorized by the Cabinet to read as follows: An official investigation was conducted into the incident that occurred at the Savonetta Plant of IGL in late February of 2005. The members of the investigating team comprised officers of the Factory Inspectorate of the Ministry of Labour and Small and Micro Enterprise Development, namely, Mr. Jeffrey Millington, ISO I and Ms. Marsha Ramnath, ISO I.

As indicated in the previous response to part (a), an investigation has been carried out under the aegis of the Ministry. However, this investigation is incomplete. The Ministry is currently awaiting reports of metallurgical testing on the fragments of the exploding vessel, which is being conducted by two international bodies with appropriate testing facilities, Air Liquide, Paris, France and the University of New Mexico. These results are necessary to conclude the report on the investigation. Barring unforeseen circumstances, it is expected that the investigation will be completed in July this year.

A response to parts (c) and (d) is dependent on the completion of the official investigation. When the report is received, the Ministry will seek appropriate advice as to the extent of disclosure that can be made.

Sen. Ali: Madam President, I asked in this question who are the members of the investigating team, all I have here are two Government members. Are they the only members on this team?

Sen. The Hon. D. Montano: Madam President, I cannot answer that. We were asked what the Ministry did; the Ministry put these two officers to investigate and that is all the information I can give.

Sen. Ali: Madam President, I did not ask what the Ministry did. I asked who the members of the investigation team were and all I have in the answer are two names who are ISOs.

Sen. The Hon. D. Montano: That is my information.

Madam President: Do you have another question?

Sen. Ali: Yes, Madam President. I wanted to know what happened and not necessarily what caused the incident and the measures taken; those are separate things; a description of the incident.

Sen. The Hon. D. Montano: Madam President, what I know from what I have read and having spoken to the officers involved is that IGL operates two plants, one at Aranguez, one at Savonetta. They process, as I understand it, for gases: CO₂, oxygen, acetylene and nitrogen.

The information that we have at this point is that they maintain fairly accurate records of the bottles that come into the plants to be filled. After this explosion, their records indicated that one bottle of gas was missing; it was simply not there. According to the records that they have of the bottles that were coming into the plant, the bottle missing was an acetylene bottle. Apparently an oxygen bottle is filled with a compression rate of 2,200 pounds per square inch (PSI). Acetylene is pumped at the rate of 300 PSI.

One of the safety measures that IGL uses is that all of the bottles used for the different gases have different nozzles, so that you cannot take an acetylene bottle down to the oxygen manifold; it simply would not make a connection. There is some indication that the missing bottle was not an IGL bottle but, in fact, was exported from a company in Grenada. It may well be, and the indications are, that the reason for the metal testing is to determine that the bottle which exploded was, in fact, an acetylene bottle. We do not know that for a fact, but the indications are that it may have been. It may very well be that the owners of the bottle had a fitting on it that would have indicated to the operators at IGL that it was an oxygen bottle. You cannot tell the two bottles apart necessarily because of the fitting; apparently it had the oxygen fitting on it, so it was connected to the oxygen manifold. It appears that is what happened.

The worker in question was a young man who, apparently, had been working for IGL on and off for about three years; apparently he was quite a bright fellow. He had been offered a permanent job by IGL, but he was studying—exactly where I am not sure—and had declined permanent employment. When he first came in, he was trained and, therefore, was familiar with the routines and what he should have done, but this seems to be a situation that went out of control.

They have been unable to find the nozzle that was attached to the oxygen manifold, so we are unable to conclusively determine exactly what happened at this point. But one of the things I can say is that the company has paid the funeral expenses and has filed a claim for workmen's compensation. That is the information that I have, Sir.

Sen. Ali: Madam President, I believe that the hon. Minister mentioned that Air Liquide is one of the people doing a test. Is it not a fact that Air Liquide, as a partner of IGL, was also part of the investigating team? One wonders whether the independence of the testing was compromised by using them for testing.

Sen. The Hon. D. Montano: I cannot answer that; I do not know that Air Liquide is any part of IGL. I do not have that information. I cannot see that it would prejudice them one way or the other. The question was to determine what type of metal it was and what happened. The company has accepted responsibility for it, has filed an insurance claim and is prepared and willing to compensate the young man's family. I do not know what else can be done under the circumstances other than to determine what the true facts are and to put procedures in place to make sure that it does not happen again. I think that is where everyone is headed; I see no blame there.

I did find out that IGL has had no serious accidents for the past 10 years; that is my information. I have, at least, some assurance that the right things seem to be happening here.

Sen. Mark: Madam President, may I ask the new Minister of Labour and Small and Micro-Enterprise Development, whether in light of this development he does not see the need to have the Occupational Safety and Health Act promulgated and administratively operationalized and could he give this Parliament an undertaking as to when he anticipates it will become operationalized?

Sen. The Hon. D. Montano: Madam President, that calls for an opinion on my part; in fact, that is outside the frame of the Standing Orders. I am not going to go there this afternoon. Thank you.

Madam President: Can we go back then to Question No. 81 to the Minister of National Security. Did you find the answer?

Sen. Joseph: Yes, I found the answer.

**Police Service
(Eye in the Sky Surveillance Unit)**

81. Sen. Wade Mark asked the Minister of National Security:

- (a) Could the Minister inform the Senate about the present status of the "eye in the sky" surveillance unit?
- (b) Could the Minister state the exact cost of this surveillance unit to the taxpayers of Trinidad and Tobago?

- (c) Could the Minister further state whether it is the intention of the Government to acquire additional surveillance units for the police service?
- (d) Could the Minister also state what is the name of the company which provided the surveillance unit and its various directors on its board?

The Minister of National Security (Sen. The Hon. Martin Joseph): My apologies, Madam President and Members of this honourable Senate.

On September 16, 2004, Cabinet approval was granted for the Ministry of National Security to acquire by sole selective tender three centennial sky watch mobile crime surveillance units to be used to deter criminal activity and to assist in the detection of crime. According to the information provided by the Commissioner of Police, the units were delivered to the Trinidad and Tobago Police Service on December 01, 2004; February 08, 2005 and April 25, 2005 and are currently deployed at Independence Square, Port of Spain, the Neal and Massy compound and at Busy Corner in Chaguanas.

Senior officers attached to Divisions of the Trinidad and Tobago Police Service to which the units are assigned, are responsible for supervising all activities relating to the units and are expected to report to the Commissioner of Police on a monthly basis. The Commissioner of Police will continue to deploy the unit to areas throughout Trinidad and Tobago as the need arises.

The total cost of the three units to the taxpayers of Trinidad and Tobago is \$1,387,818. The Minister of National Security is not in a position, at this present stage, to advise on the intention of the Government to acquire additional units for the Trinidad and Tobago Police Service, as an evaluation of the effectiveness of the existing units must first be undertaken. The Minister proposes to have such an evaluation conducted by the Commissioner of Police after one year of continuous deployment throughout Trinidad and Tobago, the results of which would determine Government's decision regarding any additional acquisitions.

The name of the supplier of the sky watch units is Upper Notch Limited, a subsidiary of Merchandising and Special Events Services Limited, a company registered by law in Trinidad and Tobago. With respect to the specific directors, the Ministry's privacy policy does not permit me to disclose the name of the private contractors, but I have indicated that it is a registered company in Trinidad and Tobago.

Sen. Mark: Madam President, could the hon. Minister indicate to this Parliament whether as Minister of National Security he has gotten value for these surveillance units and how they have assisted his Ministry in the fight against crime?

Sen. The Hon. M. Joseph: Madam President, I thought I answered specifically that an evaluation is going to be conducted by the people who are required to make sure that the units are working and that is the Commissioner of Police and law enforcement. The hon. Senator is asking for an opinion on my part; I am not in a position to provide an opinion at this time.

Sen. Mark: I did understand the Minister to say that a merchandising and entertainment organization was responsible for the acquisition of these surveillance units, the eye in the sky. Are you telling this Parliament that the agency responsible, that company, is a merchandising and entertainment company? Is that what you told us?

Sen. The Hon. M. Joseph: I indicated to you that the name of the supplier of the sky watch units is Upper Notch Limited, a subsidiary of Merchandising and Special Events Services Limited, a company registered by law in Trinidad and Tobago.

Sen. Mark: Madam President, may I ask the final question through you to the Minister? Could you tell this honourable Parliament when this particular company was registered in Trinidad and Tobago?

Sen. The Hon. M. Joseph: I am not in a position to provide that answer.

Toxic Chemicals Regulations

85. Sen. Basharat Ali asked the Minister of Health:

- (a) Now that the Pesticides and Toxic Chemicals (Amdt.) Act, 2005 has been assented to, when can we expect the Toxic Chemicals Regulations, which had been drafted and approved since June 2004 to be brought to this House?
- (b) What is expected to be the impact in terms of prevention of future disasters similar to the incident in the Debe area caused by fire and which is still under investigation by the EMA?

The Minister of Health (Hon. John Rahael): Madam President, the Toxic Chemicals Regulations are currently being prepared for printing by the Chief

Parliamentary Counsel. It is expected that it would be laid in both Houses of Parliament in July 2005. Enforcement of these regulations, once passed, will go a long way towards preventing disasters, such as the Debe incident, as all activities pertaining to the importation, manufacture, storage, packaging, sale, use, handling, transportation, export and disposal of toxic chemicals, will be controlled by the Pesticides and Toxic Chemicals Control Board and subject to monitoring by the Pesticides and Toxic Chemicals Control Inspectorate which is the compliance arm of the board.

Of other particular significance, are sections 16, 19, 20, 21 and 22 of the draft Toxic Chemicals Regulations. Section 16 states:

“The premises in which toxic chemicals are stored shall in addition to conforming with other written laws relating to the land development be designed to resist fire, earthquake, high winds, floods and illegal access.”

Section 19 states:

“Toxic chemicals shall be transported in packages or containers constructed, handled and labeled in accordance with the recommendations of the United Nations Economic and Social Council on the transport of dangerous goods, the International Civil Aviation Organization or the International Maritime Organization.”

Section 20 states:

“Where an importer or manufacturer sells or distributes a toxic chemical, he shall record the quantity sold or distributed and inform the board of the name and address of the place where the toxic chemical is to be stored, used or manufactured.”

Section 21:

“The Board may require that certain named toxic chemicals be sold or distributed only to certain named organizations or persons.”

Section 22:

“Waste materials containing toxic chemicals shall be destroyed or disposed of by a method specified by the Board so as to prevent any risk to the public or the environment.”

Thank you, Madam president.

Sen. Ali: I wonder whether the Minister could say whether the pesticides regulations will be updated also and whether there will be entities who sell both toxic chemicals and pesticides alongside each other.

Hon. J. Rahael: With respect to the updating of the Pesticides Act, I anticipate that would happen, but how that will be implemented, with respect to the sale of it, I am not yet in a position to say.

Sen. Prof. Deosaran: Madam President, I crave your indulgence and your kind assistance, please, just for a minute.

I refer to question No. 9 which has been awaiting an answer from the Minister of Public Administration and Information since April 03. I can understand some of the difficulties, but I ask, not on my own behalf, but on behalf of the Senate, because this matter of judgments against these four service commissions is a very serious one for public policy. I think it is in the public interest that we hear some explanation from the Minister concerned, whatever the reasons might be.

Thank you.

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, the information resides with the service commissions which, as you know, are independent bodies. We have written them asking them to provide the information. I think the Senator is well aware that he has also asked his committee to provide the information. I do not know if he has been any more successful, but that is where we are. I keep following up and asking them to provide the information, but these are independent commissions. I do not know whether he has had any more luck than I have had, with his own Joint Select Committee, but we requested the information. I will keep trying. Did I hear a suggestion?

Sen. King: If they are not performing, fire the commission.

Sen. The Hon. Dr. L. Saith: I will support you if you move the motion.

Madam President: Hon. Senators, we shall now move to the tributes to be paid to former Senator, Mootilal Moonan, who died on June 02, 2005.

**CONDOLENCES
(Mr. Mootilal Moonan)**

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I rise on behalf of the Government to say a

few words about the late Mootilal Moonan. He was a Senator, I think for about two years, 1991 to 1992, when the UNC was formed out of the National Alliance for Reconstruction and at that time took over the official Opposition from the PNM. He was appointed for two years.

Mr. Moonan or “Mootie”, as he was popularly known, was a fine example of a self-made man. Born in Rio Claro 74 years ago, he worked his way from Rio Claro to San Fernando to Tunapuna and, ultimately, to become a very successful and well-known contractor in the country. He was self-made and colourful in his language. I was at the funeral on Sunday when Anna Mahase reminded us that whenever she threw a carnival party, Mootie would be there in his red shirt, red pants, red shoes.

He was a hard worker. He had many friends. I have been to functions at his house where I would see people from all walks of life; from the highest to the lowest, all political shades, all professional shades. He was really a person who you could meet and work with and be admired by all people.

My own personal relationship with Mr. Moonan goes back to around 1961. I had come back to Trinidad and joined the Ministry of Works as a young engineer. He was just starting in the contracting business and over the years we had maintained both a professional and quite friendly relationship.

He was famous for his sayings: “Moonan moves mountains”. I do not recall the exact occasion which caused him to say it, but his famous words were, “Who vex loss”; that kind of what I call “country saying”. I am sure during his time in the Senate, Senators were treated to that kind of what I call “country wisdom”. As a country boy myself I understand that country wisdom. The country has lost a son of the soil who has made a contribution. Everyone would agree that having lived his life fully, he did leave an indelible mark on our country.

I take this opportunity, on behalf of the Government and Senators on this side, to extend our deepest sympathies and condolences to his wife and three children: two sons and a daughter.

May he rest in peace.

Sen. Wade Mark: Madam President, Mootilal Moonan, former Senator, proud member of the UNC, past President of the Trinidad and Tobago Contractors Association, employer, father and friend to the multitude, was born on May 27, 1931 and died on June 01, 2005.

Condolences
[SEN. MARK]

Tuesday, June 07, 2005

He did not serve as Sen. Dr. Saith said between 1991 and 1992. He did serve between 1990 and 1991, when we replaced the PNM back in 1990 as the official Opposition.

Mootilal Moonan was the founder and Chairman of the Moonan Group of Companies, an organization that was established with limited resources in late 1959, and one which he developed on his own steam and foresight with the cooperation of dedicated and loyal staff and workers into one of the largest contracting and engineering firms in the Republic of Trinidad and Tobago.

Mootilal Moonan started his operations with only a mere \$250, his life savings over a period of 10 years from a salary of \$20 a week, which he worked for at the time. He had set out from his hometown, as Sen. Dr. Saith said, Naparima/Mayaro Road in Myelin Village, Rio Claro. He worked for some time in Rio Claro, went to San Fernando, then proceeded north and made his base at Streatham Lodge Road in Tunapuna. He rented a house and an office at \$60 per month, which he eventually purchased at a later date. He achieved fame and fortune at this location and as my colleague said, the legendary hallmark was born in 1969: "Moonan moves mountains."

At the early age of seven years, he was so motivated to succeed that on weekends he would sell snow ball and press, now called "sno cone" and showed his entrepreneurship by hiring two or three young boys to assist him. His payment to them was made by giving them each snow balls. Even with this humble beginning, he created employment for those citizens.

His early years characterized the struggle that most of us from humble parentage have had to endure. At that early age he worked in the cocoa estates and orange fields and planted tomatoes and rice alongside his mother, whom he had always loved and adored. One of his greatest ambitions was to create jobs for people of all classes. At one time he employed as many as 1,800 persons and enjoyed the creation of jobs for people, as much as he would enjoy sipping a glass of chilled champagne.

Former Senator Mootilal Moonan travelled extensively to various parts of the globe and considered this beautiful country, Trinidad and Tobago, as the greatest country on earth. His family has a background of over 140 years of history in this country and he always cherished Trinidad and Tobago, until he breathed his last breath.

One of his philosophies was that the higher one grew in status, wealth and education, the simpler one must become. He always emphasized that you must

have both feet planted solidly on the ground at all times and he always used the phrase: “There is the greatest dignity in humility and simplicity”.

Madam President, on numerous occasions, he would tell stories of his beloved mother. I want to share one with you. I want Sen. Dr. Saith, the Attorney General and the others to listen to this one very carefully. When a Julie mango tree bears fruits, the burden of the weight forces the fruit to touch the ground and the school children would stone the tree. So too, his mother explained, when you become successful in life you too will be stoned and abused; but one must not become annoyed, because stones are never thrown at barren trees like the immortelle, but stones are thrown at productive trees so that one can partake of the fruits. It was out of this saying came the slogan my colleague referred to: “Who vex loss”.

2.30 p.m.

Madam President, this was the man with whom I worked in 1990—1991 as my senatorial colleague. I was here. You said I lie?

Sen. Jeremie: I will never say so.

Sen. W. Mark: Okay. I thought he said I lied, so I wanted to make sure, but he did not say that.

I worked with him, Madam President, a very colourful character, very elegant in his language and his contributions and always willing to offer advice to me and those who were on this side of the Bench.

Madam President, may I, on behalf of the distinguished Leader of the Opposition who is now a prisoner of the State, offer our belated condolences from the entire UNC family to his wife, children, and his relatives and may his soul rest in peace.

Sen. Prof. Ramesh Deosaran: Madam President, it is customary when someone who has been in this Senate for us to remember them with solemnity and sympathy on their passing.

I make this remark on behalf of the Senators on the Independent Bench and, of course, we are quite pleased to be associated with remarks made by the Hon, Minister Dr. Lenny Saith, for much of what he has said, I will make slight reference to, and indeed the familiarity which Sen. Mark also mentioned.

I say that I had a share as well in that proximity to Sen. Mootilal Moonan when he was a Senator on the Opposition Benches. I was sitting behind at that

Condolences

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time as an Independent Senator as well, and he occupied the same seat which Sen. Robin Montano now occupies. [*Laughter*] I believe the similarity stops at that point but that was exactly the kind of humour that Sen. Mootilal Moonan brought to us by his presence and utterances during the debates in which the Senate was engaged.

I am reluctant to recall some of the jokes that he made, some of the allusions he made to public servants, and to the pundits of the country and so on. But he was what we can call in the language of Trinidad and Tobago, the local parlance—a real character. He was an enigma in some sense, a man endowed with simplicity, a keen sense of humour, and the touch of sarcasm he brought into the debate sent us all into a laughing mood, but it was more than laughter. The sarcasm instructed us as to what the essential points of the debate really were, and it is in such circumstances I remember him.

I used to take gas from his gas station at Valsayn, and in addition to getting my tank filled, I would leave filled with advice of all different kinds: how to run the country, who should be nominated for the Presidency, and what role I could have played in facilitating such an upward movement, and I believe it was easier to move mountains than for anybody to make such a move towards that high office. All that was in good jest to our national character, but there was something very significant I think he has left behind to which Sen. Dr. Lenny Saith made reference and which I believe should form a part of his legacy to us.

Madam President, it is a mystery in this country that there have been so many good examples of men and women who have made something out of very little, sometimes out of nothing. It is a mystery to us why men like Mootilal Moonan who have climbed from the depths of poverty and seized opportunities and made full use of the opportunities that came their way, I find it quite regrettable that so many of our young people cannot avail themselves of such examples. I hope by our recollections today, a few young people will note his passing, but would hook on to such examples he has left.

His determination to succeed, his persistence, even with what we might call a modest education, has been able to show strength of character by his fortitude, his amiability to win friends and even influence people; such strength of character sometimes being in the realm of human affairs is more important than higher certified education. It is in those terms that we remember him.

I lived close to him in Valsayn at one point and he would always want to know what is going on in Parliament and made comments on the performance of

some of the Ministers, some of whom are here today. I do not think I should recall exactly what he said, but he always wanted to talk politics. It was almost perhaps a second love after business. In fact, if he could have made politics his business he would have done so and perhaps, he made such an attempt and that was what brought him to the Senate in 1990—1991 as a UNC Senator, and that is why I have good cause to recollect his memory and share these words as Sen. Dr. Saith and Sen. Mark did.

On behalf of the Independent Bench, I wish to extend our heartfelt sympathy to his three children: Mahendra, Manoj and Vindra, his family, and I think he would be remembered in those terms I have expressed.

Thank you, Madam President.

Madam President: Hon. Senators, you have heard from Sen. Dr. Saith, Sen. Mark and Sen. Prof. Deosaran, each of them relating their own recollections of former Sen. Mootilal Moonan who died on June 02, 2005.

To all of us, he was a well-known businessman who made his mark in this country and remained humble and simple. I was not personally acquainted with him, but whenever I met him at functions, he would acknowledge me in a very friendly manner. We were all aware of his meteoric rise in the business world as I said, which was done by hard and dedicated work.

And, as Sen. Prof. Deosaran has pointed out today, when work ethics seem to be something of the past, when nobody wants to work hard but to reap the benefits of what hard work would bring, I think he should be used as a fine example of what hard work and dedication can bring to those who use those attributes and their God-given abilities to help them to make a way for themselves in the world.

I am not very familiar with his time in the Senate, but as Sen. Mark has said, he made some useful contributions in the Senate. I join today with the Government, the Opposition, and the Independent Benches in paying tribute to former Sen. Mootilal Moonan and in relaying my personal sympathies on behalf of myself and my husband—who also was acquainted with Sen. Moonan to a certain extent—to his family, his wife and children.

I would direct the Clerk of the Senate to write to the family of Mr. Moonan expressing condolences on behalf of the Senate and sending copies of the tributes that were paid here today. May I ask everyone to please stand for one minute's silence?

The Senate stood.

HOME MORTGAGE BANK (AMDT.) BILL

[Second Day]

Order read for resuming adjourned debate on question [May 17, 2005]:

That the Bill be now read a second time.

Question again proposed.

Madam President: Hon. Senators, the debate on the following Bill which was in progress when the Senate adjourned on Tuesday, May 17, 2005 will now be resumed.

At that the time, Sen. the Hon. Conrad Enill was about to commence his reply but deferred it to this sitting.

The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill): Madam President, let me start by thanking all those who contributed to the Bill.

During the course of the debate, quite a number of issues were raised, some were relevant to the matter before us and some were in fact not. Generally, before I reply to the specific issues, let me for the benefit of all, spend a minute or two talking about this particular institution.

Madam President, you would have noticed that the Senators have been given the latest copy of the Home Mortgage Bank financial statements and this is consistent with the requests that were made by some Senators in which they stated they were having difficulty in getting the information. In the report, with the Mission, the Chairman's Review and even the Board of Directors and the Corporate Information sections, you would see what we have attempted to explain in the context of the institution, what it does, how it does it, and how it has succeeded over time.

The institution, the Home Mortgage Bank, started in 1985 and was able to achieve the results it has achieved today within a particular legal framework. Given where we are today, with changes to the Companies Act and a number of other pieces of legislation, we argued on the last occasion that it was absolutely necessary to bring the legislation governing this particular institution in line with what is required today, and we have sought to do that by the amendments we will propose this afternoon. Many concerns were expressed as they related to issues of benefits, levelling the playing field and so forth and I will try to deal with them as I go through.

The first issue that came up in the discussions was raised by Sen. Robin Montano which I think was answered, but just for completeness he asked the question what is by-law No. 1, section 22:34 a(1). I think on the last occasion we said that by-law No. 1 specifies the procedures for the annual general meetings of shareholders of the bank.

Sen. Mark had a number of issues; Sen. Mary King had a few, Sen. Bro. Noble Khan, Sen. Seepersad-Bachan, Sen. Baksh and, of course, Sen. Prof. Ramchand. I want to deal with Sen. Prof. Ramchand first because I think that is a good place to start.

Sen. Prof. Ramchand said originally, Government had 40 per cent, and other shareholders 60 per cent, how and why does Government now have only 22 per cent and others 78 per cent?

I want to go back to the formation of this entity. It was formed at a time to bring private sector governance and interests into an institution that the Government will support for the purposes of doing one thing, building a mortgage market but also getting involved in an area of finance that was not something with which we were familiar and so the experiment at the time was that this institution was going to be a private sector institution and the Government was going to support it so that it could achieve its mandate which was very simple.

There were a set of primary institutions involved in the home mortgage market, this institution will repurchase those and, therefore, free up funds within the system so that they could continue with their activities. In order to do that, there was a particular structure, one that included an institution called the International Finance Corporation, a subsidiary of the World Bank. It spent some time with it, and, overtime in the programme determined it was going to come out of the system and release its shareholding to private sector entities.

It is the only institution of this type in Trinidad and Tobago at this time and the shareholding of the institution is as follows: the Central Bank of Trinidad and Tobago still maintains 15 per cent; the National Insurance Board, 7.5 per cent; Republic Bank Limited, 24 per cent; the Bank of Nova Scotia Trinidad and Tobago Limited, 6 per cent; Colonial Life Insurance Company Trinidad Limited, 43.8 per cent. This was done because when IFC, I believe, decided that it wanted to get out, this institution purchased it. TATIL Life Assurance Limited, 3.1 per cent and British American Insurance Company Trinidad Limited, 0.6 per cent.

One of the things that would happen as a consequence of the changes we are seeking to make, is that once this institution goes on the Stock Exchange these

relationships would change and, in some instances, some of these companies would have to sell down to a particular extent.

The intent therefore is to allow this institution to be owned by a larger number of shareholders as opposed to just this particular group. In order to do that, it was necessary for the shareholders to meet and determine if this was what they wanted to do. They have done that, and agreed that in the interest of the institution and what it was intended to do, they will move forward in that particular way and, therefore, there is a shareholder agreement in moving forward. That is reflected in the amendments that are before us.

The intention also is that if this institution is going outside, then the Central Bank of Trinidad and Tobago, which currently has an ownership of 15 per cent, should not really be in that arena and, therefore, the thinking is that the interest the Central Bank has, will in fact be taken over by the Ministry of Finance as part of the Government's portfolio and that is how the question of moving the Central Bank as regulator from that arena and putting that interest in the Ministry of Finance to continue with the institution in the way it was set up before was arrived at.

Sen. Prof. Ramchand also asked what contribution has the Home Mortgage Bank made to housing, particularly housing for people in the low income group since its inception. Well, the Home Mortgage Bank mortgage facilities are basically available to all citizens and the Trinidad and Tobago Mortgage Finance Company (TTMF) which is the mortgage institution that was raised on the last occasion has sold approximately \$320 million in mortgages to the Home Mortgage Bank. So these are mortgages which would have been generated by the TTMF, their own portfolio is lower income groups and, therefore, what has in fact occurred, is that the Home Mortgage Bank has now taken that group of mortgages thereby releasing more resources for the Home Mortgage Bank to continue to unlend.

Who benefits from the tax exemption? It is available to investors who purchase the mortgage bank bonds from the Home Mortgage Bank. It is the income earned on the bonds by investors that is tax free, that is, the interest paid out to the investors and not dividends paid to the shareholders.

Does the Home Mortgage Bank have a reduced rate of corporation tax, and, if so, what is the arrangement? The Home Mortgage Bank does not have a reduced rate of corporation tax, nor does it have any special tax arrangements. The bank pays corporation tax as any other corporate entity. Those were Sen. Prof.

Ramchand's specific questions in the context of this particular institution and what we are attempting to do.

Sen. Baksh asked how many houses the Home Mortgage Bank—well the question was asked in the context of Government's policy of delivering 10,000 houses annually. He asked what role will the Home Mortgage Bank play in that scenario and he wanted to understand what the actual numbers were.

It is difficult to get actual numbers, but, quite frankly, the Home Mortgage Bank will be supporting the Government's housing policy. My information is that the bank accounts for about one quarter of all new mortgage originations and the changes we are proposing now are likely to increase the participation rate.

He also went on to build a case for Government to go ahead with the current arrangements, withdraw all the subsidies and put them into a fund to help the low and no income citizens of Trinidad and Tobago. We have examined that, and, as other developing economies, we have learnt that establishing a proper mortgage finance mechanism is more likely to benefit all the consumers and create a more efficient marketplace thereby reducing the size of the public safety net. The contribution is very good, but with the experience that we have based on looking at what is taking place in developed economies, it really does not support doing it that particular way.

He was told that the Trinidad and Tobago Mortgage Finance Company currently gives loans in which there is 100 per cent financing and he was doubtful about that arrangement. According to the information that is available to me, TTMF currently has 57 loans valued at \$8.6 million where 100 per cent financing was provided, so there is, in fact, activity in that arena. The Minister spoke about it on the last occasion and there were some concerns as to whether that was correct.

Madam President, Sen. Bro. Khan asked who benefits out of this operation. Sen. Bro. Khan stated quite categorically and passionately that the profitability of the bank benefits a small number of corporate shareholders. There are three or four levels of benefits: one level is certainly where the product is made available to the customer, but let me take you to the chairman's review on page 6 because who benefits out of this operation and what the benefits are is something I think we need to consider for a moment.

Since inception, the bank has managed to do a number of things; one is to provide a lower mortgage rate when compared with other providers. In the interest rates structure, in 1990 for example, for residential rates, banks and private

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lenders were 13.5 per cent mortgage, bridging finance, 18 per cent. The Home Mortgage Bank was 10 per cent on the mortgage and 10 per cent on bridging so in fact, it was able and has been able to provide lower interest rates on primary mortgages and also on bridging interest rates.

It has done a number of things as well such as elimination of penalties. It has recently introduced a fixed rate funding; financing for the first 10 years; land and home improvement loans; as well as other homeowner facilities at prime homeowners interest rate; reversed mortgages so the elderly can access equity; and training of mortgage personnel. So a whole range of individuals benefit out of this operation.

He also made the point that an agent such as the Home Mortgage Bank which forms part of the input does not really serve us in any way. These amendments are intended to enhance the bank's ability to service its customer base and quite frankly to expand the range of products in the more dynamic and open market of the 21st Century. The last changes were made some 20 years ago.

Sen. Bro. Khan: Madam President, on page 12, I see earning per share as 185.11 and number of shares as 160. While the Minister has illustrated that some benefits have been derived to some people, could these figures quoted here give a reflection of "too high a rate"? Because to my simple mind, there seems to be very high profits.

Sen. The Hon. C. Enill: What you are actually seeing is the motive for success, in that, quite frankly, it does not work that way. It works on the basis of—well if the institution is doing something good, it means that the portfolio does not have a particular risk profile and, therefore, that flows into the operations. If the portfolio were different, then you would have a different risk profile and, therefore, we would have a different expenditure. I think what this says to us is that the experiment in the current form is doing what we intended should have happened when we set it up and at this point in time we need to support and change it so that it can continue to do this kind of thing. That is basically what that message is.

3.00 p.m.

I certainly expect that the institution would look at the comment you have just made, because if, in fact, there is room to move down, I believe that the institution is committed to doing just that.

In terms of Sen. Mary King's question concerning the status report on the Home Mortgage Bank, we have done that. Sen. King asked the question: Why at this stage have we not gone further and also authorized the bank to offer its shares on the regional stock exchange, and when will we have it listed on the regional stock exchange? My information is that the shares must first be listed on the local stock market and the next step would be the cross-listing on the other regional stock markets.

The role of the second executive—you asked the question—in order to ensure that the public policy objectives are at all times represented by the institutions. The Minister of Finance elects two members to the board. In order to ensure that management is represented at the board level, two executive managers are elected to the board; one obviously being the CEO and the other is any executive manager the shareholder wishes to choose as a member. This is typical, virtually, of all financial institutions in Trinidad and Tobago where other members of the executive are represented on the board, and this is simply following that particular governance programme. In the UTC's case when they were looking at it, I think they were even looking at three executives. There is a term for it that I do not recall now, but it has to do with one looking after the other or not having one person doing that.

Another question was: Procedure should apply to any special general meeting; how do you deal with proxy holders? My information is that where the Act is silent, the Companies Act applies. So that whatever is the procedure, the proxy holders in the Companies Act will flow through here. That is the information that I have, based on your comments.

In terms of Sen. Wade Mark—

Sen. Mark: As you are coming to me, may I ask a question? Madam President, I would like the hon. Minister to indicate to us whether the current subsidy that applies to the Home Mortgage Bank affects the condition precedent to the IADB loan, as raised by my colleague, Sen. Baksh, in terms of the subsidy that the Government can give, up to a ceiling of US \$6,000 per family who are in possession of a joint family income of \$4,000 and/or less; whether, for instance, this particular subsidy that is being extended to the Home Mortgage Bank would affect the IADB loan.

Sen. The Hon. C. Enill: First of all, I am not sure of your definition of subsidy. What the Home Mortgage Bank is doing and what the Home Mortgage Bank is getting is not basically a subsidy; it is basically a benefit on a financial

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instrument to raise funding in a particular way, to, in fact, pick up mortgages that are already in the market. So the subsidy as it relates to the IADB, will compete, I believe, at the primary level and not at the secondary level. So from where I sit it does not really enter into the discussion.

Sen. Mark: You are saying it would not affect it?

Sen. The Hon. C. Enill: My information is it does not affect it, but I would check that for you.

There are a number of questions that Sen. Mark asked and I will try to deal with some of them. He asked: "Has the Home Mortgage Bank worked? What, to date, have been the benefits? Have the citizens benefited from this arrangement?" I think that in dealing with some of the other Senators I indicated to you that the bank was formed in order to provide affordable funding to the middle income sector of the mortgage market; to promote affordable mortgage funding throughout the market and to develop the market as a whole. On the basis of the information that is available, the bank has been successful and it can boast of having the largest private residential mortgage portfolio in the country. The bank's creation has led to lower interest rates—we demonstrated that—increased flexibility, and all the things that we have talked about which were confirmed by the chairman's remarks.

You made a statement that says the private sector was able to have the Home Mortgage Bank subsidized by the taxpayers of the Republic. The need for an institution such as the Home Mortgage Bank was identified by the International Finance Corporation and the Central Bank of Trinidad and Tobago. We then invited a number of institutions: the National Insurance Board, commercial banks and insurance companies, to enter into a partnership with them for the establishment of the institution known as the Home Mortgage Bank, quite frankly, similar to how the UTC was, in fact, set up. Therefore, to state that this is something that the private sector sprung on the Government, or to put it in that sense, is really not true. It really was something that an international organization determined was in the best interest of our financial system and sought to bring the players together in a way in which it will achieve that objective and, in fact, it has done that.

The Senator also asked: "How many hundreds of millions of dollars have been provided to the Home Mortgage Bank through exemption of interest on income tax?" The bank is allowed to issue only \$600 million in tax-free bonds, exempted from both income and corporation tax, and I think that is the subsidy that was

being talked about. At present, tax rates will translate into a maximum benefit or a maximum tax break for purchasers of bonds to the tune of approximately \$11.7 million annually. This feature is identical for companies investing in approved mortgage company bonds. The Home Mortgage Bank is the largest private sector institution with approximately \$378 million in approved mortgages.

Sen. Mark also asked the question: “Why are you continuing to subsidize and make concessions to an institution that is doing extremely well, financially speaking?” Well, we have seen the success of the institution. Mortgage rates are lower, prepayment penalties have been eliminated and home ownership is in the reach of a much greater sector of the society. The benefits of this are all substantial. Rather than remove these concessions we would make them available to other players in the marketplace—a commitment that we have made—and we are, in fact, looking at this as we seek to look at our budget exercises.

If they are prepared—and this is where the difficulty arises in some instances—to keep a focus on affordability and consumer-initiative to simplify and streamline the mortgage marketplace, they certainly will be considered. The difficulty we have had in the past is that that has really not been their focus. Their focus has been elsewhere. The ordinary man and woman would not be able to access these shares unless the Government makes amendments. Once there is an offering of shares to the public, shares would be listed on the stock exchange and applicants would receive their full or pro-rated portions of shares applied for. These shares can either be held by individuals or traded on the stock exchange.

Comments were made as they related to putting aside a particular amount for credit unions and trade unions. I believe that can, in fact, be accommodated and in every instance where the Government has sought to make shares available, we have, in fact, recognized that. You are correct about one thing: in order for us to create the kind of wealth that we are talking about and transfer it, there has to be the widest possible participation. I believe that is, quite frankly, our intent, to ensure that certain segments of the society do, in fact, participate in this benefit. Just as a note, there are also requirements for the Securities and Exchange Commission which prohibits limitations on share ownership.

Another question was: “How would these amendments serve the national interest?” Widening the base of home ownership, as you preach from time to time, ensures that all citizens have a greater stake in the country and this promotes greater stability. The Government, as you are aware, has a vision for housing and

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home ownership and this has been enunciated in a different forum based on the Government's ownership and housing policies.

Sen. Mark did raise some other questions. One had to do with bpTT, but I think that was answered by bpTT on Friday, May 20, where, instead of the \$200 million contract that was reported, the *Express* indicated the contract to be \$4.1 million, plus or minus 10 per cent. So I think that has been dealt with.

Sen. Mark: Madam President, through you, bpTT, to date, has not provided this nation and its citizens with an explanation as it relates to the value of the contract between this particular company. [*Interruption*] He is saying that bpTT has provided us with information and I am saying to him that is not true.

Sen. The Hon. C. Enill: Madam President, all I am saying is that according to the information that is available in the public domain—and it was raised here—Sen. Mark said \$200 million; the information says TT \$4.1 million. That is all I want to say at this point in time.

The other one is one in which a colleague of Sen. Mark—and Sen. Mark at some point in time—has put in the public domain a statement that I am supposed to have said relative to the Estate Management Business Development (EMBD). Madam President, just for the record, I wish to indicate that the *Newsday's* account of what I had said on Saturday, June 04, 2005, is correct, that is to say—I am reading from a document:

“A board member yesterday denied that Enill had stated that politics had its own morality. The member recalled that Enill stated that until the board met with the Prime Minister, they would have to live with Rao.”

I put that on the record because I do not want it to be said that an incorrect statement was, in fact, made and we did not respond, and since it was made in this place, I want to put that on the record.

I think that having regard to the discussion that we had, and having regard to—

Sen. Seepersad-Bachan: You did not answer anything from me.

Sen. The Hon. C. Enill: Sorry, Madam President, I am being told that I did not answer Sen. Seepersad-Bachan's questions.

Sen. Seepersad-Bachan had asked the question: “Was this Home Mortgage Bank set up for the purpose of stimulating the secondary mortgage market and

was it really doing this by absorbing some of the prepayment risks?" Partly, but as well, the issue of standardizing mortgage documentation, automating underwriting techniques and simplifying the procedures necessary for home owners to both originate and prepay their mortgage.

The Senator asked another question: "Where will the existing legislation fit in?" As mortgage institutions, banks are currently exempted from stamp duty and engage in securitization across the various subsidies. Currently, as it relates to the Home Mortgage Bank itself, it does not fit into the legislation that is currently before us, but we are proposing amendments to deal with that. Another question was: "How has the bank been performing with respect to the risk involved in mortgage-backed assets in the collateralized mortgage options; whether or not they have been absorbing prepayment risks, et cetera?" The answer to that is that the bank continues to perform admirably with more than its \$1.18 billion in mortgage purchased. So that if there are, in fact, risks, they are absorbed within that particular portfolio.

The other question had to do with the Trinidad and Tobago Mortgage Finance Company. I think we answered that. I said that it was something in the vicinity of \$320.6 million in mortgages. "What are the concerns of the Central Bank?" The Central Bank of Trinidad and Tobago is a shareholder of the mortgage bank and has always held the position of deputy chairman of the Bank. My information is that their representatives are satisfied with the progress and the impact of the Home Mortgage Bank in the marketplace and they have basically also signed off on these amendments as a shareholder.

The other question was: "It was required that it comes under the FIA and the Moneylenders Act, and I know that one does not allow the other." There were some comments from the Governor of the Central Bank of Trinidad and Tobago and basically what he said was that the institution as it is, is more appropriately related to the Securities Industries Organization and the business that it currently does, does not neatly fit under the FIA.

Sen. Seepersad-Bachan: So you are not going to put it under the FIA? What is the decision now?

Sen. The Hon. C. Enill: It is my intention when we get there to talk about that, because there are one or two ways that we could go. We can go with this and basically amend the FIA, which we are working on right now, or we can simply defer it for another time. But when we get to the committee stage I would be guided by the discussions that take place.

Sen. Mark: Before you continue—

Madam President: Are you prepared to give way to Sen. Mark?

Sen. The Hon. C. Enill: Yes. I am being advised that I should give way and I therefore will do so.

Sen. Mark: Thank you, Madam President, and through you to the hon. Minister. First of all, I would like to ask him, when you are increasing the maximum aggregate capital value of the bonds, whether you should not provide the Parliament with some information. Because you said a short while ago that the maximum has now gone to \$600 million when it was authorized at \$300 million. The Parliament is not aware of this. We only heard about this in passing. That is the first area.

I raised a question about UDeCott and about its lack of accountability and transparency involving billions of taxpayers' dollars, and I wanted you to provide this Parliament with some kind of information on this matter.

Madam President: Okay, Senator, you are taking a lot of his time, so I think we would allow the Minister to continue now.

Sen. Mark: Sorry about that, Madam President.

Sen. The Hon. C. Enill: Madam President, I had considered the question in which Sen. Mark had said UDeCott is not accountable to the Parliament, but I tried to understand in the context of the amendments to the Home Mortgage Bank Act how that really was something that we should have dealt with and I could not find it, so therefore at this point in time it is not relevant.

Sen. Mark: You talked about the EMBD. What was the relevance of that?
[*Interruption*]

Sen. The Hon. C. Enill: Madam President, the Senator is noisy.

Sen. Seepersad-Bachan: Madam President—

Madam President: We still have the committee stage, you know. I do not know if Senators remember that. A lot of these questions could be asked in committee.

Sen. The Hon. C. Enill: Madam President, we would take them at the committee stage. I hope the Government has been able to indicate, once again, that what it is seeking to do at this point in time is to provide an organization that

has been doing extremely well with the wherewithal to continue to carry out its work consistent with its objective of providing additional benefits for the people of Trinidad and Tobago at this particular point in time. In the very good traditions of democracy, we have answered all the relevant questions.

Sen. Mark: No, you have not answered my question.

Madam President: Are you giving way?

Sen. The Hon. C. Enill: I am giving way to Sen. King, Madam President.

Sen. King: Madam President, thank you very much. I just had one question which it is not clear to me what the Minister told us a while ago, and it relates to the tax rates. He has said there are no special subsidies or allowances for the bank, but \$30.3 million, the taxation is accounted here as \$723,000. That is like 2.5 per cent. Is that going to be the norm for other companies? What is this? I think we need to have an explanation as to what is the tax rate, because there are no other relationships between their liabilities. If this is not the tax rate then what really is for other companies?

It is on page 12 of the report.

Sen. The Hon. C. Enill: On page 12 of the report, “Net profit before taxation—”

Sen. King: \$723,000 on \$30.3 million—I want to know why that small amount. You said they do not have any special tax rates.

Sen. The Hon. C. Enill: Can we defer that to the committee stage?

Sen. King: I presume it will come up?

Sen. The Hon. C. Enill: Yes. We will make sure it comes up.

Madam President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 to 5 ordered to stand part of the Bill.

Clauses 6 and 7.

Question proposed, That clauses 6 and 7 stand part of the Bill.

Sen. Mark: Madam Chairman, as it relates to persons who are directors, could the Minister indicate what provision would guide us in the proposed amendment as to when someone is disqualified to be appointed as a director? Where in the amendment or in the parent Act is there such a provision?

Sen. Enill: We are told that the Companies Act would apply.

Question put and agreed to.

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

Clause 8.

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

Sen. Mark: I am looking for the section that deals with quorum. Did you pass it, Madam Chairman? Okay, you can proceed.

Question put and agreed to.

Clause 8 ordered to stand part of the Bill.

Clauses 9 to 12 ordered to stand part of the Bill.

Clause 13.

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

Sen. Mark: Madam Chairman, in clause 13, we are seeing where three directors could, in fact, constitute a quorum to take major decisions. I am concerned about the subsidy aspect, which I would say something about a little later on. But I find three persons a bit limited, particularly where you have an extension of the number of persons who now constitute the board. The board, as I see here, is made up of close to 11 and up to a maximum of 13, but still you are saying that if you are taking a decision, you have three persons who would constitute a quorum to take major decisions of the bank.

Sen. Enill: What do you recommend?

Sen. Mark: At least a minimum of five, I suggest.

Sen. Enill: Yes, I could live with that.

Madam Chairman: Clause 13(a)(iii) is amended to read:

“Five directors or such greater number determined by them shall form a quorum for the transaction of business and notwithstanding any vacancy among the directors a quorum at a meeting properly convened may exercise all the powers of the directors.”

Question put and agreed to.

Clause 13, as amended, ordered to stand part of the Bill.

Clause 14.

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

Sen. Seepersad-Bachan: Madam Chairman, this is one of the questions that I wanted to ask the Minister that he said he would leave to committee stage. This was an issue I raised during my contribution with respect to the supervision of the assets and liabilities. That was as a result of the different classes of shareholders. Now that you do not have these classes of shareholders, is it necessary to have a committee appointed as such, or whether this should be left to the discretion of the board of directors? That was my question to you and you did not really answer it.

Sen. Enill: We are going with you. It should be left to the discretion of the board.

Madam Chairman: Would you let me know what is the amendment?

Sen. Enill: We are deleting section 20(a)(i)—

Madam Chairman: All of section 20?

Sen. Seepersad-Bachan: All of section 20, because it would take—

Madam Chairman: If you wish, we can come back to that clause.

Sen. Enill: Yes, let us come back to it. Let me just look at the parent Act.

Clause 14 deferred.

Clauses 15 and 16, ordered to stand part of the Bill.

Clause 17.

Question proposed, That clause 17 stand part of the Bill.

Sen. Mark: Madam Chairman, I am trying to find out from the Minister where is there—I think I saw it somewhere but maybe he can remind me—the provision of a pension plan for the employees of this institution? Is it stated in the

amendment that we have here, or is it incorporated in the original parent Act, that a pension scheme or arrangement would be effected so that those workers who are employed in the bank would have some kind of entitlement?

Sen. Enill: I am being advised that it is already in place. In fact, if you look at page 19 of the bank's report you would see where the bank operates a defined contribution scheme for all eligible employees.

Sen. Mark: All right.

Question put and agreed to.

Clause 17 ordered to stand part of the Bill.

Clause 18.

Question proposed, That clause 18 stand part of the Bill.

Sen. Mark: Madam Chairman, again, I would like to find out from the hon. Minister, seeing that this institution has now been effectively privatized, but we have legislative cover to give effect to that privatization scheme, what guarantees do we have that the Government would be able to play a role in ensuring that in seeking to broaden share ownership of this institution that is becoming more and more lucrative—how are we to be guaranteed or assured by the Minister that there will be an arrangement when you are issuing these shares to ensure that a bloc, if 30 per cent is issued, will go towards the credit unions and trade unions as the case may be, so you do not have an open season where you have a cabal taking charge of all these shares on the market?

Sen. Enill: First of all, this institution was always a private sector. What we are seeking to do now is to ensure that the public will be able to participate and in all institutions, it has been our template to ensure that some portion of the shares that will be available, are made available for institutions like the credit unions, the trade unions, NIB, and those kinds of institutions, for exactly the same reason that you have just stated, and that is going to happen as well, in this one.

Question put and agreed to.

Clause 18 ordered to stand part of the Bill.

Clause 19.

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

Sen. Mark: Madam Chairman, if you go to the original Act, Chap. 79:08, you would see under section 31(1) that the law indicates that this bank may issue up to a maximum aggregate capital value of \$300 million. We had the Minister indicating to us earlier in his presentation that there has been a movement from \$300 million to some \$600 million. One would have thought that while the Minister does have some discretion under section 31(2), that it was going to be obligatory on his part to come to this Parliament to seek an amendment to the relevant section of the legislation. Just as in the original Act it was indicated that the bank may issue bonds up to a maximum aggregate capital value of \$300 million, when the Minister, based on discussions with the Home Mortgage Bank, decided to vary this maximum aggregate capital value, there should have been some accountability to the Parliament. Why must the Parliament be told in passing, today, that the maximum value has gone from \$300 million to \$600 million? We need to get some stipulation, some provision, where the Parliament would be informed of such a development.

Sen. Enill: Madam Chairman, he is absolutely correct, but I want to read also, section 31(2) of the parent Act, which says that: “The Minister may by Order vary the maximum aggregate capital value of the bonds.” I also need to tell him that the increase from \$300 million to \$600 million in bonds was approved and granted over 10 years ago by whoever the then Minister was, and the Order was, in fact, gazetted.

Sen. Mark: It was just gazetted.

Sen. Enill: Yes, as is required under the Act.

Sen. Mark: What I am arguing or advancing is that the Parliament—these things sometimes are gazetted and the Parliament is none the wiser. What I am asking is: Could not, for instance, the Order be tabled in the Parliament so that the Parliament would be aware of this movement? Whether it happened 10 years ago, or given the circumstances you may have to increase it shortly from \$600 million to, maybe, \$900 million, or maybe \$1 billion, how would we be able to know, as a Parliament, that this has taken place?

Sen. Enill: Madam Chairman, I think the best we can do is to make sure that the *Gazette* is circulated to all Members. The reality of these matters is that they would always be in the public domain and they would be subject to discussion. I do not think it is a secret, and I think that there is a provision that says the way we would do it is by Order and there is a process that that goes through, including, I imagine—I am not sure, but I imagine—laying it in Parliament.

Madam Chairman: That is what he is asking, if the Order could be laid in Parliament.

Sen. Mark: Could you lay it in the Parliament? The Order that is gazetted, could we have it tabled in the Parliament?

Sen. Enill: Yes, we could do that.

Sen. Mark: Madam Chairman, may I continue? What I would like to also get some clarification on is, we have a situation where a certain subsidy, incentives are being offered to this particular institution, but when I looked at the background to the formation of this institution, Minister Mottley, who was then the Minister of Finance, made it very clear that in the early period of its formation and its evolution, the public would forego revenues via the subsidy or incentives until this bank was able to find its feet. This bank was formed in 1985; it is now 20 years. Are we saying that this bank is still in its infancy stages and, therefore, we have to continue with section 31 of the original Act, or has the time come for us to let this big infant—this adult—move forward on its own?

Sen. Enill: Section 31 gives the Minister the right. The way we propose to deal with this, as I have stated before, is not to discontinue it here but to see how many other players can, in fact, access it, because we still believe that it is something that we may want to do. Remember that this subsidy does not go to the bank; it goes to those individuals who invest in the bond and, therefore, that is used as a mechanism for the bank to raise funds.

Sen. Mark: Yes, I know.

Sen. Enill: We are saying that that is still a desirable thing to do. What we are seeking to determine is whether in addition to this particular institution, other institutions that are in this business should have the same benefit, so that we could basically increase the pool. We still think that there is a role for it because we think that on the basis of doing it this way you can, in fact, influence, not the return, but the mortgage rate.

Sen. D. Montano: Madam Chairman, if I may. One of the issues here is how and where money is sourced for mortgage financing. A lot of lending in Trinidad and Tobago is sourced with short-term funds rather than long-term funds. This mechanism of long-term bonds—five-year and 10-year bonds—is a source of finding long-term funds, locked in interest rates that would be preferential to the investors and it is allowed within the banking system to then pass on the lower

rates of interest for the mortgage sector, which, in turn, funds the private housing sector.

So when it was originally conceived, it really was to stimulate, not just the mortgage sector, but the private sector investment in housing. It is still a valuable measure, and I am not sure that this Government or any other government will necessarily want to interfere with the provision, because, as I say, it has a very significant effect of sourcing long-term funds as opposed to short-term funds. When you do that, and you lock in long-term funds, you stabilize the interest rate and, therefore, can have a lower rate of interest which is beneficial to the mortgage and the housing market.

Sen. Mark: Madam Chairman, the middle class home owners, before the Central Bank, as an example, was able to juggle with its prime rate of interest—the repo rate—and was able to influence the market to the point where you could now access a home mortgage loan at a rate of about 9, 10, maybe about 9½ per cent, prior to that, even with the subsidy granted to the Home Mortgage bank—

Sen. Enill: What subsidy?

Sen. Mark: When I say, the subsidy, the incentive given to investors in terms of purchasing bonds.

Sen. Enill: Madam Chairman, no, we are not going down there. The premise on which you are arguing the section is wrong. That is a mechanism by which you can raise financial assets—you can raise funds—to do something. If you cannot raise the money, you cannot do the thing. What this instrument was able to do was for the Home Mortgage Bank to raise funds and buy primary mortgages from the TTMF to the tune of \$320 million—pick it up—and then the TTMF has funds. That is what that instrument is. There is no subsidy. You are not determining there that the rate at which you will get the mortgage is “x or “y”. That is not being done there; that is being done somewhere else. This particular institution is about raising funding, buying existing mortgages so that the house that you have, based on a particular rate with a particular institution, that portfolio could buy it, and when they buy it, they look at your issues, so that the primary institution can go out and do more things. That is what this is; that is not the same as a subsidy.

Sen. Seepersad-Bachan: This was the issue I wanted to raise with the Senator during his contribution, because the last time during the debate I got the impression one of the reasons you took it back to the drawing board was to look at this particular issue from the perspective that this is now an institution that is

going to become public, and because it is public, it means you are now opening the market so anybody else can enter; like Fincor, for example, can now become a secondary market company in mortgages. This particular concession—remember now they would have an advantage because they can now offer their customers the tax exemption.

My concern is how are you levelling the playing field? I got the impression last time that you were going to do something about that. I do not know if you have done it, or you propose to do it in other legislation or you are going to do it here.

Sen. Enill: It was not my intention in this piece of legislation to do that. We are still considering how we can make more players access this particular benefit. Remember as well that Fincor, for example, is involved in our—

Sen. Seepersad-Bachan: That is just an example.

Sen. Enill: It is a good example, because you have all the other institutions that are not as restricted as this institution is to this particular thing. Fincor does all kinds of other types of business.

Sen. Seepersad-Bachan: But none of them has been participating in the secondary market in terms of putting these bonds together, these cmos and these mortgage-backed assets, or these asset-backed bonds, and so on, and now you want to open that. That was the impression I got, that you are trying to open this up. And if you are, you could end up in a situation where now this is on the public; somebody else who wants to get in the market does not have the same tax concession.

Sen. Enill: You are correct. You are basically indicating how sensitive an issue it is and how complex an issue it is and how, whatever we have to do, we have to do it, taking those things into consideration. What we are seeking to do here is simply to allow the Home Mortgage Bank the ability to continue as it has been doing, and expand. We have also said, because this issue was raised in the other place, that while doing that as well, we will look to see whether the other institutions, such that you have just mentioned, and others like that, can also participate. We also have to do a similar exercise with the Unit Trust Corporation (UTC) because it is a similar kind of institution, and that is—

Sen. Seepersad-Bachan: But they should be allowed the same concession.

Sen. Enill: Yes, and that is going to be looked at within the context of the timetable that we have on the White Paper. But that is not being dealt with at this time.

Sen. Seepersad-Bachan: Minister, please allow me. I must express my concern because it is now that you have given this institution, which is now going to be private sector totally, with what has happened over the last couple years—

Sen. Dr. Saith: All is private sector.

Sen. Seepersad-Bachan: Yes, but it has now opened up and you are now going to be more private sector, and this particular institution will have this concession. So I am saying the playing field will not—

Sen. Dr. Saith: The other companies will meet with the Ministry of Finance and discuss how to level that playing field. Not everybody will go into this business.

Sen. Seepersad-Bachan: But is that one of the reasons they will not be able to go into the business because somebody else would have the competitive edge over them?

Sen. Dr. Saith: It was there all the time, and now that you have done this, I am sure other people who have an interest, whether it is Fincor or Royal Bank Trust, will begin to meet with the Ministry of Finance to see how they work out an arrangement, as they do with approved mortgages now. All trust companies get approved mortgages. Whether they are Scotia Trust or RBTT Trust, they all get tax relief. It is the same thing for aid to hotel development and loans that they make. So you work with the institutions to do that. The intention has always been, if you did not find a source of long-term funds at predictable interest rates, then mortgage interest rates will not change every five years; they would change every year, because if you are dealing on short-term deposits to fund mortgages, you cannot commit yourself to 7 per cent over five years, unless you have backing, it a bond which says—

Sen. Seepersad-Bachan: I know, and Sen. Dr. Saith, I agree with you. I understand that as the objective and, furthermore, this is why we want that market to develop so that we can encourage that. We can encourage more of it.

Sen. D. Montano: It is a good argument, but right now this Bill is considered to be the Home Mortgage Bank and that is all we really need to settle on today.

Sen. Seepersad-Bachan: My concern is that by passing this Bill today, what will happen is that you will not have a level playing field. That is my concern. There is going to be one institution now that is going to have this particular concession.

Sen. D. Montano: That is understood, but we are not changing it.

Sen. Enill: By the time we get there we would have that sorted out.

Sen. King: Madam Chairman, is this a good time to ask the question on the tax?

Sen. Enill: Yes

Sen. King: Thank you.

Sen. D. Montano: All approved mortgage companies are entitled to a tax-free concession if they invest in mortgages below a certain level. I think it is \$450,000, but I am not sure. They can invest in mortgages and the interest income is tax free to all of them, and that is the facility that you are seeing here.

Sen. King: So, on their total profit they are not taxed like any other corporation—on their net profit?

Sen. D. Montano: All the Fincors and the RBTT Trust, and so on, are entitled to the same tax-free allowance on the interest on certain approved mortgages.

Sen. King: So you are saying the tax rate is 2.5 per cent?

Sen. D. Montano: I am not saying that, what I am saying—

Sen. King: Well this is what this book is saying.

Sen. Dr. Saith: Why it is that way is whereas Fincor or Scotia Trust gets its income from a wider range of investment, this particular institution only deals with mortgages, and if it turns out that 90 per cent of its mortgages are below whatever the limit is, the percentage, therefore, of tax that it has to pay would be smaller. This institution only deals with mortgages and, therefore, the same tax relief that is available to everybody else; the ultimate amount that you pay in relation to income, will vary according to the business that you are doing.

Sen. D. Montano: Senator, I think if you look at, as an example, RBTT's accounts for last year, if my memory is right, their average taxation rate was 8 per cent, because of the way that they invest. For instance, companies that invest in instruments in the other Caricom islands, that interest is tax free also, and there is a lot of that that is going on. So if you look at the tax rates of the financial institutions, with the exception of Scotia Bank, which is the one closest to the rate that you expect, the others are a long way off, much less than 30 per cent. They are down 12—15 per cent.

Madam Chairman: Minister, do you want to add something to that?

Sen. Enill: I think the question that Sen. King is trying to determine is really the effective tax rate. The computation for taxes, if I remember it, is based on a number of considerations, based on your portfolio. I do not have that information available to me now but I can certainly have it made available to you, because I think it is something that we can find, and if that is okay with you, I will make sure it is explained to you.

Sen. King: Thank you very much, Minister.

Sen. Cropper: It seems to me that Note 17 to “Notes to the Financial Statements” explains the situation and the issue that is at hand, because what it seeks to do is indicate the proportion of the profit that would be covered by the exemption, and because of the nature of the business of this company, offering mortgages exclusively to the lower income bracket, the proportion of the income that would be exempt from tax is therefore very high and, therefore, the average tax rate appears to be extremely low when you make that calculation.

Sen. Enill: It is on page 27.

Sen. King: But you would still provide—

Sen. Enill: Yes.

Question put and agreed to.

Clause 19 ordered to stand part of the Bill.

Clause 20.

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

Sen. Seepersad-Bachan: Madam Chairman, this one was an issue with the Moneylenders Act and the FIA. I know this was what was recommended in the other place.

Madam Chairman: Let the Minister answer and then you can ask.

Sen. Enill: Madam Chairman, I had indicated that when we got to this stage I would want to indicate to the Senator that in the other place there was the feeling that the Home Mortgage Bank should, in fact, fall under the FIA. The FIA, as it is currently structured, based on information from the Central Bank, does not really fit and there does not seem to be within the FIA, a way in which you could do this very easily, and what I need some guidance on is whether it would be appropriate

to go back to the original Act which, basically, was that the FIA and the Moneylenders Act shall not apply to the Bank in circumstances where it really does not fit under the FIA.

Sen. R. Montano: Let me just help you here, Minister. The FIA excludes financial institutions such as banks and insurance companies from requiring a moneylender's licence. The Moneylenders Act requires anybody who is carrying on the business of moneylending to have a licence. So when you go and you say here, in section 33(1)—and I know this is not your intention—that the FIA and Moneylenders Act shall apply, what you are doing is creating serious legal confusion. I could then argue in court that the Home Mortgage Bank must have a moneylender's licence, but it does not; and because it does not have a moneylender's licence, all of its loans are not valid.

4.00 p.m.

With the greatest of respect, I will simply say that the Financial Institutions Act (FIA) applies. If you want, although I do not think that it is necessary, you could go on to say that the Moneylenders Act shall not apply to the bank.

Sen. Enill: I was wondering, given where we are with the issue—

Sen. R. Montano: We are on the same side of the page. I am on your side in this regard. We do not want the Home Mortgage Bank (HMB) to have to get a moneylender's licence. Do we?

Sen. Enill: The answer is no.

Sen. R. Montano: We do not want the Moneylenders Act to apply to the bank because it will have to get a licence. Whether or not you put in that, unless you specifically legislate it, the Moneylenders Act applies.

The FIA says that a financial institution does not require a moneylender's licence. Therefore, from a legal point of view, it is either we say that the provisions of the Moneylender's Act shall not apply or—I think that it would be more appropriate and in favour of the Home Mortgage Bank—that the Financial Institutions Act shall apply. The Home Mortgage Bank would then get other protection. Am I making sense?

Sen. Enill: Yes, you are. I propose that we go back to the original provisions in the parent Act which basically says that the Financial Institutions Non Banking Act and the Moneylenders Act do not apply to the bank.

Sen. R. Montano: I do not want the Moneylenders Act to apply to the Home Mortgage Bank. If you do not want the FIA to apply—

Sen. Enill: I do not

Sen. Seepersad-Bachan: Why?

Sen. Enill: Because the Central Bank of Trinidad and Tobago has reviewed the Financial Institutions Act and they have stated that they are of the view that the nature of the current business conducted by the HMB does not exactly fit into the current FIA. More appropriately, the business of mutual funds and the buying and selling of mortgages, including mortgage securitization falls under the mandate of the SEC.

Sen. R. Montano: The Home Mortgage Bank is involved in bonds and securities.

Sen. Enill: Yes. We can amend it to keep the Financial Institutions Act and not the Moneylenders Act. If we are doing that, we will have to go back to clause 5 and include advance. I am being told that if we went with that particular amendment with the FIA, the bank would be in breach because it would not be able to hold property.

Sen. R. Montano: Republic Bank cannot hold property? Guardian Holdings and RBTT cannot hold property?

Madam Chairman: Could we have a little quiet so that we can hear what the Minister has to say?

Sen. R. Montano: Let us take this in a step wise direction. The Home Mortgage Bank is a company under the laws of Trinidad and Tobago. Any company under the laws of Trinidad and Tobago is allowed to hold property. Why do we not want the Home Mortgage Bank to be able to own property? Republic Bank, RBTT, Guardian Holdings and Clico own property.

Sen. Enill: We would remove the Moneylenders Act and maintain the FIA.

Madam Chairman: Clause 20(a)(33)(1) is to be amended to read as follows:

“the Financial Institutions Act, 1993, shall apply to the bank”. The Moneylenders Act would be deleted.

Question put and agreed to.

Clause 20, as amended, ordered to stand part of the Bill.

Clauses 21 to 23 ordered to stand part of the Bill.

Sen. Seepersad-Bachan: When we asked the question about the by-law, you said that the by-law would be a temporary one until the new by-laws come into effect. The gist of this is not saying that. I want to get confirmation of that. The new one will become what?

Sen. Enill: Yes. By-law No 2.

Clause 14 recommitted.

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

Madam Chairman: You were waiting to decide whether or not you would delete (a).

Sen. Enill: We are deleting (a) and (b).

Madam Chairman: Are you deleting the whole clause?

Sen. Enill: Yes. One flows from the other one. Section 20 of the Act which deals with Executive Committee should be deleted.

Sen. Seepersad-Bachan: He is saying that section 20 of the Act is to be deleted.

Sen. R. Montano: The whole of clause 14 is out. Section 20 of the Act remains.

Sen. Enill: The argument is that we want to delete section 20 of the Act which deals with the Executive classes.

Sen. R. Montano: Is it a new clause 14? There is a new clause 14 in which section 20 is deleted. The original clause is deleted and there is a new clause 14 saying that section 20 is deleted.

Sen. Enill: What is the term? Is it "repealed" or "deleted"?

Sen. Seetahal: Repealed.

Madam Chairman: Clause 14 should now read:

"Section 20 of the Act is repealed."

Sen. R. Montano: The question is that clause is amended by deleting the original and replacing it with the words, "section 20 of the Act is repealed".

Madam Chairman: Clause 14 is deleted and replaced by new clause 14 which reads, "section 20 of the Act is repealed".

Question, on amendment, put and agreed to.

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

Clause 5 recommitted.

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

Sen. Enill: In the original clause 5(a), the current amendment is by inserting the word “or” immediately after the word “undertaking”. This is okay, but we want to amend it to have the words “and advance” immediately after the word “borrow”.

The parent Act says, “for the attainment of its purpose the bank may borrow money and mortgages or charge its undertaking”. After the word, “borrow” we want to insert “and advance”.

Sen. R. Montano: Why do we not repeal it and make it clean so it will be easier for someone reading it? We are giving you what you want.

Madam Chairman: Read it for me, Mr. Minister.

Sen. Enill: Clause 5 is to be amended by deleting paragraph (a) and substituting the following:

“May borrow and advance money on mortgages or charge its undertaking, property or any part thereof and issue bonds, debenture stock and other securities whether as security for any debt, liability or obligation, of the bank of any third party or otherwise.”

Question, on amendment, put and agreed to.

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

Schedule ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

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

Madam President: I think that it would be wise for us to take the tea break at this time. We will return at 5.00 p.m.

4.25 p.m.: *Sitting suspended.*

5.00 p.m. *Sitting resumed.*

ANTI-TERRORISM BILL

Order for second reading read.

The Minister of National Security (Sen. The Hon. Martin Joseph): Madam President, I beg to move,

That a Bill to criminalize terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets, be now read a second time.

Madam President, the coined phrase, "The War on Terrorism" has made its way in the commonplace language today. Almost on a daily basis this phrase is used in the media, as terrorism has become an intrinsic part of our everyday lives.

The concept of terrorism in the global landscape is a relatively novel one. We can recall the following events which still resonate in our minds. In 1992, the bombing in Yemen; in 1993, the attack in Somalia; in 1994—1995 the unsuccessful plots to assassinate the late Pope John Paul II and President Bill Clinton; in 1998, East Africa Embassy bombing; the 2000 attacks on the navel battleship the USS Cole; of course the 2001 attacks on the World Trade Centre in New York, and the Pentagon in Washington DC; in 2003, bombing in Madrid, Spain, and the 2004 massacre in Russia.

No doubt, the events of September 11, 2001 have impacted most on our changing attitude towards terrorism and associated activities. The world witnessed first hand the effects these acts may have on any state, such as widespread public fear; injury and loss of human life; extensive property damage; loss of business and investment confidence; negative impact on a country's gross domestic product and moral prejudice.

Today, countries engage in battle to fight this new war, which does not involve traditional enemy states, but rather international radical groups and organizations that hold strong ideological views and use force to concede their demands. In the wake of the events of September 11, 2001, the United Nations Security Council, via Resolution 1373 of September 28, 2001, reaffirmed and I quote:

“...it's unequivocal condemnation of the terrorist attacks which took place in New York, Washington DC and Pennsylvania on September 11, 2001.”

The Council recognized that such acts constitute a threat to international peace and security. Against this backdrop, the United Nations Security Council decided inter alia that its members, and I continue to quote:

“...prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled directly or indirectly by such persons, and of persons and entities acting on behalf of, or at the direction of such persons;”

It further stated, Madam President, that all states shall:

“...freeze without delay funds and other financial assets or economic resources of persons who commit or attempt to commit terrorist acts or participate in or facilitate the commission of terrorist acts; entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;”

Member states are to, I continue to quote:

“...ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice.”

Such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts.”

All states are to:

“...take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter.”

In addition to the United Nations Resolution 1373, there are 12 major multilateral Conventions and Protocols related to states’ responsibility for combating terrorism, they are:

1. Convention on offences and certain other acts committed on board aircraft.
2. Convention for the suppression of unlawful seizure of aircraft.
3. Convention for the suppression of unlawful acts against the safety of civil aviation.

4. Convention on the prevention and punishment of crimes against internationally protected persons.
5. International convention against the taking of hostages.
6. Convention on the physical protection of nuclear material.
7. Protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
8. Convention for the suppression of unlawful acts against the safety of maritime navigation.
9. Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf.
10. Convention on the marketing of plastic explosives for the purpose of detection.
11. International convention for the suppression of terrorist bombing.
12. International convention for the suppression of the financing of terrorism.

Madam President, our responsibility, therefore, rests not only with the international community; we are also obligated to this cause at a regional level. Trinidad and Tobago, a member state of the Inter-American Committee Against Terrorism (CICTE) has given its full commitment to implementing CICTE's counter terrorism measures.

This year, Madam President, you would recall that Trinidad and Tobago chaired the Fifth Regular Session of CICTE during the period February 16—18, 2005. At that time Trinidad and Tobago had the honour of becoming Chair of CICTE. The work plan adopted calls for member states of CICTE to inter alia:

Update and adapt national legal frameworks with respect to existing international instruments and adapt their institutional structure to fully apply the standard adopted.

Adopt and fully implement international instruments related directly or indirectly to terrorism, such as the United States National Convention Against Transnational Organized Crime and the Inter-American Convention on the Mutual Assistance in Criminal Matters.

Develop mechanisms of cooperation to ensure an adequate flow of information at the national and international levels.

At that session, the member states recognized that there was still need to implement into domestic legislation measures to prevent, control and penalize the financing of terrorism and the Declaration of Port of Spain adopted on February 17, 2005, reaffirm the commitment to the hemispheric fight against terrorism. Among the resolves of the member states of CICTE is to heed the call for, and I quote:

“The urgent need to adopt measures in accordance with national laws and international instruments in force to strengthen regional and international cooperation and the exchange of information with the aim of locating, capturing, prosecuting and punishing the sponsors, organizers and perpetrators of terrorist acts, as well as of identifying and freezing assets and resources used to facilitate, promote or commit such acts.”

The foregoing no doubt indicates the importance of legislation such as this. However, whilst recognizing this need, the Government is mindful that a balance must be struck with regard to infringement on persons’ constitutional rights, and thus would be adverse to presenting any legislation which is unconstitutional on the grounds of not being reasonably justifiable in a society that respects the rights and freedoms of the individual.

Madam President, work on the Bill commenced since 2002; the Government did not create this Bill in a hasty fashion within the last several months. The comments of key stakeholders in the society were sought and received by the office of the Attorney General in 2003. The contributions were indeed profound, concerns were considered, and some incorporated in the present Bill. Permit me to indicate those stakeholders that made contributions:

1. Trinidad and Tobago Chamber of Industry and Commerce by way of correspondence to the Attorney General dated July 14, 2003.

Madam President, I will not put into the record the details of the recommendations made by the Trinidad and Tobago Chamber of Industry and Commerce. The reason I am saying this is because there is an impression given that this Bill was being presented in haste and as a result there were concerns as to who were consulted, et cetera, and whether or not any consultations, in fact, did take place. I continue:

2. The American Chamber of Commerce of Trinidad and Tobago by way of letter dated August 7, 2003 and addressed to Attorney General at the time, Sen. The Hon. Glenda Morean.

3. The Anjuman Sunnat-ul-Jamaat Association of Trinidad and Tobago.

[*Interruption*] I know I did not pronounce it right. No, I did not say Jamaat-al-Muslimeen. [*Interruption*] You know I did not say that. I do not have a date for their submission.

Sen. Mark: Have they called for a withdrawal of the Bill?

Sen. The Hon. M Joseph: No. Not as far as I am aware. I continue:

4. The then Chief Justice, Mr. Michael de la Bastide.

The purpose of the Bill, as indicated earlier, is to criminalize terrorism, to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorists' assets.

Madam President, Part I, clause 2 of the interpretation section lists the definition of specific terms in the Bill. Part II: Offences. Today's terrorists have transnational and global ambitions and because we live in an age of free movement and migration they easily blend in wherever they go. As such, they may develop support and assistance from anywhere and from anyone in the world. We must, therefore, be vigilant to prevent, and if it exists, to eradicate such support.

Part II of the Bill creates offences that not only deal with the person who commits a terrorist act but also with the person, who while not belonging to a terrorist group, knowingly assists in the carrying out of terrorist activity. These provisions satisfy 1(d), 2(a), (c), (d) and (e) of Resolution 1373.

Clause 3(1) creates the offence of a terrorist act.

“A person who commits a terrorist act is guilty of an offence and is liable to imprisonment for 25 years.”

As defined in clause 2, “a terrorist act” means:

- “(a) An act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause—
 - (i) loss of human life or serious bodily harm;
 - (ii) damage to property; or
 - (iii) prejudice to national security or disruption of public safety including disruption in the provision of emergency services or to any computer or electronic system or to the provision of services

directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure, and is intended to—

- (iv) compel a government or an international organization to do or refrain from doing any act; or
- (v) intimidate the public or a section of the public, for the purpose of advancing a political, ideological or a religious cause; or

(b) an offence under any of the Conventions;”

Conventions being any one of those mentioned earlier—the 12 to which I alluded earlier—and which are defined in this clause.

The definition of a terrorist act includes not only acts that could cause loss of life and property but is extensive enough to encompass acts such as cyber attacks and those intended to interfere or cripple the vital public utilities required for our day-to-day living and business.

Further, Madam President, clause 3(2) states that where the commission of a terrorist act involves the commission of some other offence pursuant to some other law, that person shall be punished for both the terrorist act and other offence. The term imposed for the other crime would run consecutively to that imposed in relation to the terrorist act.

The next 11 offences established in clauses 4—15 all carry a penalty of 20 years imprisonment upon conviction or indictment.

Clause 4: Provision of services for commission of terrorist acts. Under this clause, it will be an offence to provide financial or other related services whether directly or indirectly for the purpose of committing or facilitating the commission of a terrorist act.

Clause 5: Collection or provision of property to commit terrorist acts. This clause makes it an offence for someone to collect, provide or make available property where he has reasonable grounds to believe that it will be used to commit a terrorist act. Property is widely defined in clause 2 of the Bill to include “an asset of every kind”. I do not think I need to read the details.

Clause 6: Use of property for commission of terrorist acts. This clause makes it an offence if a person commits or facilitates the commission of a terrorist act in two instances, where the person:

- “(a) uses property, directly or indirectly, in whole or in part for the purposes of committing or facilitating the commission of a terrorist act; or
- (b) possesses property intending that it be used or knowing that it will be used directly or indirectly in whole or in part for the purpose of committing or facilitating the commission of a terrorist act,”

The clause makes it explicit that the proceeds of an act of terrorism covers not only the money stolen in, let us say a terrorist robbery, but also any money paid in connection with the commission of terrorist acts. It not only covers resources, which may be used for bomb making, arms purchasing, et cetera, but also moneys the terrorist may have set aside for non-violent purposes, such as paying a rent or renting a car.

Clause 7: Arrangements for retention or control of terrorist property. By this clause:

“Any person who knowingly becomes concerned in or enters into an arrangement which facilitates the acquisition, control or retention of terrorist property by or on behalf of another person” commits an offence.”

Madam President, terrorist property is defined in clause 2 as:

- (a) proceeds from the commission of a terrorist act;
- (b) property which has been, is being, or is likely to be used to commit a terrorist act; or
- (c) property which has been collected for the purpose of funding a terrorist act;”

Clause 8: Dealing with terrorist property. The person dealing with terrorist property as defined commits an offence under this clause if he or she knowingly:

- “(a) acquires or possesses terrorist property;
- (b) conceals, converts or disguises terrorist property;
- (c) deals directly or indirectly with any terrorist property, or
- (d) enters into or facilitates directly or indirectly any transaction in relation to terrorist property;”

It is not necessary to establish that the property was actually used to commit the offence.

Clause 9: Soliciting or giving support for the commission of terrorist acts. This clause would prohibit the provision of support for a terrorist group for the carrying out of illegal activities.

- “(2) ... “support” includes but is not limited to—
- (a) an offer to provide or the provision of expertise or skill;
 - (b) an offer to provide or the provision of falsified or forged documents; and
 - (c) entering or remaining in any country, for the purpose of committing or facilitating a terrorist act.”

Clause 10: Harboursing of persons committing terrorist acts. It would be an offence for a person to conceal or harbour anyone who is suspected of having committed a terrorist act, or hinder, interfere with or prevent the apprehension of such a person.

Clause 11: Provision of devices. It would be an offence to provide explosives or other lethal devices for the purpose of committing or facilitating a terrorist act.

Clause 12: Recruitment of persons for terrorist purposes: This clause provides as follows:

“A person who agrees to recruit or recruits any other person to participate in the commission of a terrorist act, commits an offence...”

Clause 13: Provision of instruction or training to persons committing terrorist acts. It would be an offence to train persons pursuant to the perpetration of or commissioning of a terrorist act. These instructions include the making or use of any explosives or other lethal device or the practice of military exercises or movements.

Clause 14: Incitement, promotion or solicitation of property for the commission of terrorist acts. Anyone who encourages others to partake in a terrorist act or solicit property for that purpose by means of incitement or promotion would be liable to punishment.

Clause 15: Providing facilities in support of terrorist acts. Under this clause a person commits an offence where property or facilities in their control or possession are used or permitted to be used in the arranging of malevolent meetings. The clause states as follows—Madam President, I do not think I need to quote; the clause is there.

Part III: Convention offences. The Bill will criminalize offences stipulated in the earlier mentioned counter-terrorism conventions. Trinidad and Tobago has adopted several multilateral treaties. In this regard, clauses 16—22 relate to these prohibitions.

Madam President, clauses 16—22, as I indicated, will criminalize the offences earlier mentioned in those counter-terrorism conventions and so I would not have to go through each one. I would just indicate that clause 16 deals with endangering the safety of maritime navigation. Those of you who were here would remember that I called out those 12 Conventions earlier. Clause 17 deals with the question of bombing offences. Clause 18 deals with the protection of internationally protected persons. Clause 19 deals with offences related to fixed platforms. Clause 20 deals with offences with regard to nuclear matter or facilities. Clause 21 deals with hoaxes involving noxious substances or things explosives or other lethal material. Clause 22 deals with the use of chemical, biological or nuclear weapons.

Part IV: Investigation of offences: The investigative process is no doubt crucial for the proper implementation of these provisions. As such Part IV of the Bill clearly sets out the parameters in which investigation would occur, with special attention being paid to the protection of the individual's rights and freedoms.

Clause 23: Detention Orders. This clause makes provision for the obtaining of a detention order from the High Court to prevent the commission of an offence or interference with investigations of the police. Clause 24: Power to gather information.

Part V: Jurisdiction and trial of offences. Clause 25: Jurisdiction of Trinidad and Tobago courts. Clause 26: Extradition from Trinidad and Tobago. Clause 27: Evidence by a certificate. Clause 28: Exchange of information. Clause 29: Treaty to be used as basis for extradition.

5.30 p.m.

Clause 30 deals with the Treaty to be used as a basis for Mutual Assistance in Criminal Matters.

Clause 31 is instructive—it deals with offences under this Act not deemed to be offences of a political character, which takes us to Part 7; Disclosure and Sharing Information.

Clause 32 deals with the duty to disclose information relating to offences and terrorist acts.

Clause 33 deals with the duty to disclose information relating to property used for the commission of offences under this Act.

Part 8 deals with the seizure and forfeiture of terrorist property.

Clause 34 deals with the application of restraint order.

Clause 35 deals with orders for forfeiture of property on conviction of offences under this Act.

Clause 36 deals with orders for seizure and restraint of property.

Clause 37 deals with orders for forfeitures of property.

Clause 38 deals with the sharing of forfeited property.

Part IX deals with miscellaneous powers.

Clause 39 deals with the duty to disclose information relating to passengers of aircraft and vessels.

Clause 40 deals with the power to refuse refugee application.

Clause 41 deals with the power to make regulations under the Schedule.

Madam President, this represents the major features of this Bill and let me indicate—and there is a reason I took the particular approach used in the piloting of this Bill, because, while this legislation was passed in the other place, I am aware of the concerns of some Members of this Senate about this piece of legislation.

Madam President, let me indicate to hon. Members that the Government intends to send this Bill to a select committee of the Senate for its deliberations. On that note, I beg to move.

Sen. R. Montano: Hon. Minister, before you sit, could you take a few questions?

Sen. The Hon. M. Joseph: No. Because of what I indicated it is the intension to send this piece of legislation to a select committee of the Senate for its deliberations.

Madam President: Are you saying we will have no debate?

Sen. The Hon. M. Joseph: Of course, we will.

Madam President: I see. I thought we were going to go right away.

Question proposed.

Madam President: Hon. Senators, before we continue with the debate, I just want to bring one matter to the attention of the Senate. It is becoming more obvious every sitting, that 30 minutes is not sufficient for tea, and despite the fact that I gave 35 minutes today, I had to wait for about three minutes before we got a quorum.

I ask Senators, please, in future, try to leave the tea room two minutes before 5.00 p.m. so that we can have a quorum to start the Business of the Senate. We had to wait today.

Thank you.

Sen. Wade Mark: Madam President, at approximately 5.40 p.m. in the absence of the media, we are called upon to debate a Bill—

Sen. Dr. Saith: On a point of information. I think the Senator is being disingenuous. The Senator knows full well that we were prepared to start the debate on the Pilotage Bill. The Independents agreed, Mr. Imbert was here; I asked him whether he would do it and he said we had promised to do it then and he would stick to it. So I do not think the Senator should seem to suggest, even in the absence of the media, that there is some sinister purpose behind having the Bill debated now.

Sen. W. Mark: Madam President, I wish to reiterate my statement. We are being called upon to debate a Bill dealing with terrorism in the absence of the media. [*Interruption*] We are not talking about the Information Division, we are talking about the media—to debate a Bill that is of grave significance and importance to this nation, and in spite of what the Minister has said in justification for the introduction of this Bill, and even making reference to its referral at the end of this debate to a select committee of this honourable Senate, which I believe would do little justice.

I believe that when we examine this Bill in detail which I will attempt to do during my contribution, that this Bill ought not to even be sent to a special select committee. This Bill should be withdrawn from the Parliament because this Bill infringes, violates and abrogates the fundamental freedoms and rights of the citizenry of this republic. [*Desk thumping*] So coming here today at 5.40 p.m., I do not want to be interrupted by this Attorney General. We are in a state of war. We shall be taking no prisoners.

This Bill contravenes the citizen's fundamental rights and freedoms, and as such, we advance very early in this debate that the Bill requires a special majority.

I do believe that referring this Bill to a special select committee, taking into account some of the draconian provisions will, in fact, do justice at the end of the process.

It is amazing, but in this society of ours nothing will surprise one any longer. With this regime anything and everything is possible.

Madam President, let me take you immediately to clause 29(4) of this Bill.

[Senator looking for the page]

I will come back to that one. I beg your pardon, Madam President. It was clause 24(9), and I think, I am correct on this one now.

This is a manifestation of a breach of an individual's fundamental right. It says:

“A person shall not be excused from answering a question or producing a document or thing on the ground that the answer, document or thing may incriminate him or subject him to any penalty or proceedings.”

Madam President, as you are well aware section 5(2)(d) of the Constitution of the Republic of Trinidad and Tobago protects the individual, protects the citizens from self-incrimination, and this particular provision is a clear violation of the citizens' rights and unless the Government is prepared to delete these kinds of provisions, which constitute, as we argue, a violation of our constitutional rights, we believe that this measure at the level of the select committee—which we believe the Government is using to buy some time and not to withdraw this Bill—we do not believe that this provision should be contained in the present legislation.

If we go to clause 23(1) of the legislation, you would see where there are detention orders and where a police officer—I do not know if the Minister has amendments coming from the other place—in other words, my interpretation is that any police officer, may, for the purpose of preventing the commission of an offence under this Act or preventing interference in the investigation of an offence under this Act, could apply ex-parte to a judge in chambers for a detention order and it goes on to indicate how this can be done.

Madam President, these are two very significant clauses in the Bill that we believe will open the floodgates to an abuse of power, an abuse of authority by the security services under the direction of this political directorate. We have already seen episodes and manifestations of the wholesale abuse of the process of power by this regime which seems bent on eliminating the Opposition.

Madam President, this is a regime that brings a Bill on terrorism to this Parliament and all the evidence points to a regime that is in bed with the terrorists in this country. So we have a Bill dealing with terrorism and we have a regime that is promoting terrorism in Trinidad and Tobago.

I want to let you know what a prominent attorney by the name of Mr. Russell Martineau had to say about the police, and by extension, the political directorate.

Madam President, you would recall the police—and in spite of what the Attorney General might attempt to convince or persuade the country that he is not politically in charge of a “mongoose gang—”

Sen. Jeremie: On a point of correction. I know where my colleague is going and I would repeat for the hundredth time, I think, that the Anti-Corruption Bureau of which he speaks is not a part of the Ministry of the Attorney General. It is not located in the office of the Attorney General, as I am hearing these days. I do not even know where the Anti-Corruption Bureau is but I do know that it is not located in the offices of the Attorney General and has never been located in the offices of the Attorney General. I have no idea where their offices are, but I know one thing and, that is, that they are not located in the offices of the Attorney General, and it is headed by an Assistant Commissioner of Police who reports, as all units of the police service do, to the Commissioner of Police. That is all that I have to say.

Sen. W. Mark: Madam President, the hon. Attorney General could indicate what he has just indicated, could say what he has to say, the public in this country has come to the inescapable conclusion that the Attorney General of this country, along with the Prime Minister, is responsible for giving political direction to the Anti-Corruption Investigation Bureau.

Madam President, there is an article that is written in the *Sunday Guardian*, and I believe that this particular article gives one a very good picture of what is taking place in our beloved country. I think the People’s National Movement, (PNM) if they are not stopped—and I want to say something; we will stop you all. The UNC will stop you. I want you to know that. You would not continue how you have been going. The lines have been crossed. Enough is enough!

I saw an article—because we are talking about terrorism, and this article was written by Dana Seetahal and it was the clearest I have read to date on the political nature of this body called the Anti-Corruption Investigation Bureau. [*Desk thumping*] It is in an article written in the *Sunday Guardian* of June 05, at page 35. This is what Sen. Seetahal had to say:

“Unfortunately, there is more to it than that. The AG has hired one Mr. Bob Lindquist....

Mr. Lindquist or a member of his team accompanies the police when they search premises of people suspected of involvement in corruption offences.”

It goes on to say:

“In fact, the Northern Construction constitutional motion, one of the accepted facts was that Lindquist had been present and at the premises of Northern Construction during the search.

It appears that Mr. Lindquist has engaged in interviews/discussions with suspects and their attorneys prior to their being charged. Given that Lindquist is the hireling of the government...”. [*Interruption*]

Madam President, unless you give me the commitment that any time I give way I will get back my time because, I am afraid the Attorney General is trying a tactic on me today. I am not giving way. He will have his chance to speak. [*Crosstalk*] I am not giving way this time.

“Given that Lindquist is the hireling of the government and is not a police officer of T&T, is it any wonder that the investigations of the bureau, with whom he works closely, are tainted by allegations of political motivation?”

I would like to say today we are debating a Bill on terrorism and this Attorney General must be taking us and the population for children. He is uncertain of himself.

I listened to the Attorney General on the radio last Thursday, after the post-Cabinet meeting and he was speaking in a very halting, shaky and uncertain manner. He is trying to justify and trying to indicate to the country, “I did not know this, I did not know that, I was not aware of the other,” when everybody knows that a conspiracy was hatched at Whitehall, Cabildo Chambers and Balisier House.

When he comes here to introduce a Bill on terrorism, when he is terrorizing the country—look what they did to Lawrence Duprey, as an example. “Duprey beats police”, Wednesday, March 09, 2005, in the Trinidad *Express* at page 3.

Hear what the Hon. Attorney General, with his political “mongoose gang” called the Anti-Corruption Investigation Bureau—[*Desk thumping*] They raided the home of a prominent citizen of this country, seized documents and when they

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[SEN. MARK]

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were taken to court, they ran quickly to see if they could settle the matter. This is what the Attorney General, the man who does not know anything about the Anti-Corruption Bureau; he does not know where they are located, he does not know what they do. I just hope that when he goes to heaven, he will explain to St. Peter at the gate why he is a stranger to the truth. [*Crosstalk*] He would not find me there. I might be in purgatory in transition.

On page 3 of this report it says:

“Attorney General John Jeremie told the *Express* yesterday that he had disapproved of the method used by the police in conducting the searches and offered to return the documents but on the understanding that the State would search again for the same documents, but this time do it properly.

Jeremie said the State intends to hold on to the documents because they are related to an ongoing criminal investigation.

And as a result of the outcome of the lawsuit Jeremie said he intends to offer guidelines to the Police Service as to how such searches are to be properly conducted in the future.”

This is the Attorney General who does not know anything about these raids. He says that he disapproves of the raids that were conducted. Innocent John. A fellow who does not know anything at all.

I told the Attorney General when he first came to this Parliament and I saw him in his very nice and cool way; he wants to talk to me—from the first day I unleashed terror on him because I realized that this Attorney General was peddling deceit and he was not above board. That was my view. I am more re-inforced now.

Madam President, this is the same Government that brings a Bill here, the Attorney General, the same Government that introduced an Act to make provision with respect to the public safety, public order and defence of Trinidad and Tobago, better known as the Public Order Act of 1970. The PNM of which you are a child brought this Bill and tabled it in this Parliament in 1970.

6.00 p.m.

We are talking about terrorism and when we look for a definition, the Attorney General does not define terrorism in this Bill. What we have is a definition of “terrorist act”. It goes on to tell us what “terrorist act” means and at the end of the process it says—I want you to note very carefully, Madam President:

- “(a) an act whether committed in or outside of Trinidad and Tobago which causes or is likely to cause:
- (i) loss of human life or serious bodily harm;
 - (ii) damage to property;
 - (iii) prejudice to national security or disruption of public safety, including disruption to the provision of emergency services or to any computer or electronic system or to the provision of services directly related to banking, communications, infrastructure, financial services, public utilities, transportation or other essential infrastructure,
- and is intended to:
- (iv) compel a government or an international organization to do or to refrain from doing anything or any act; or
 - (v) intimidate the public or a section of the public,
- for the purpose of advancing a political, ideological or religious cause; or
- (b) an offence under any of the Conventions.”

This definition is so wide, Madam President, and so sweeping that it can embrace anybody and almost everything in question. This is why we are saying that the Government is introducing a measure that, at the end of the process, will target, not only the Opposition, but also those forces that could be defined as being in opposition to the government of the day. This is why we find it strange.

Madam President, I was in the court this morning when the Leader of the Opposition appeared. The Attorney General of this country is the guardian of our Constitution. I want to tell you that [*Interruption*] I am not going into the merits. That is not my responsibility. I am dealing with the principles here, Madam President. Bail was set at \$750,000. When efforts were made to convince the magistrate to reduce the quantum of bail, do you know what happened? It went from \$750,000 to \$650,000.

Sen. Jeremie: Madam President, on a point of order. I think the Senator is breaching Standing Order 35(8). The question of bail is a judicial matter and he is imputing some improper motive to the magistrate, who is the person involved in the administration of justice in relation to this matter.

Sen. R. Montano: Add me in that, too, because I agree.

Sen. Jeremie: Sen. R. Montano has asked to be added as well. [*Laughter*]

Sen. R. Montano: I am imputing improper motives, too. That bail was ridiculous!

Madam President: Please, Senators, please!

Hon. Senator: [*Inaudible*]

Sen. R. Montano: Yes, you did.

Madam President: Please! Standing Order 35(8). Senator, I do not think that matter should be discussed; not in the way you are doing it. You are imputing improper motives to the magistracy.

Sen. W. Mark: Madam President, I bow to you, but we will discuss it on the platform. We are not worrying about that.

I would like the Attorney General and the Government to lock up a few more of us on trumped-up charges. I think that would be a very good thing. I think that the country owes them a great deal. We are thankful for their doing what he and the PNM did. Very good! Continue to lock up people!

We are introducing a measure and look at what the definition of a terrorist act is. This is the same Government that seeks to criminalize terrorism to provide for the detection, prevention, prosecution, conviction and punishment of terrorist activities and the confiscation, forfeiture and seizure of terrorist assets. Madam President, would you believe that this is the same Government that is now seeking to prevent terrorism and that is currently under the leadership of the Attorney General?

When we spoke in this Parliament some time ago, we accused the PNM of being in bed with terrorists. We said that they were supporting criminals in this country and the hon. Leader of Government Business got up here and made a statement denying it. I want to put on public record an article written in the *Newsday* of Saturday, March 05, 2005 on page 17. It reads:

“Jamaat won marginal seats for PNM”

That was on public record in the courthouse. It was said by Abu Bakr. It is not written by Abu; it was said by him. Do you want me to quote?

Sen. Dr. Saith: As I understand it, Madam President, Abu Bakr also said that he won seats for them in elections. I just want him to quote both sides.

Sen. W. Mark: I read this paper and I have seen no evidence, no information, but I am prepared to allow Dr. Saith to tell me what part of this newspaper this is written. I have not seen it. All I can say is that the paper I have before me says that—

Sen. Dr. Saith: Let me agree with you that it is not in that article, but are you prepared, as you asked me, to deny that that was said about your party?

Sen. W. Mark: I have an affidavit—do not let me read it, you know—about a fellow called Bickram, about you and Joseph. Do not let me read it.

Hon. Senator: Who is Joseph?

Sen. W. Mark: The hon. Minister of National Security.

We are being told to support a bill promoted by a government, piloted by an Attorney General—by the Minister of National Security. Well, these days, I must admit, they look like twins. They are operating conjointly and in conspiracy. You cannot make out John from Joe. Same thing! They are in conspiracy, so forgive me, Madam President.

So, Madam President, how can we deal with terrorists? How can we address the issue of terrorism in our country when we read in an article on Saturday, July 22, 2004, where a CEO tells a breakfast meeting that State dollars were used to buy drugs and guns? I am saying to the Attorney General: Try as you may to rein in the criminals, it is very difficult. The reason it is difficult is that when you resigned your job as Minister of Public Utilities and went to Mayaro, you took an army of criminals with you.

Sen. Joseph: Madam President, on a point of order. The Senator is imputing improper motives and what he is saying is not correct. I want to make sure that is not left on the *Hansard*.

Sen. W. Mark: Madam President, when you deny something—

Madam President: Senator, you really need to be careful with what you are saying. You are imputing improper motives to individuals.

Hon. Senator: [*Inaudible*]

Sen. W. Mark: I was informed.

Madam President: The Minister is now saying it is not true. You should really withdraw those words.

Sen. W. Mark: Madam President, if I was informed.

Hon. Senator: Informed by whom?

Sen. W. Mark: By the people of Mayaro, of Ortoire/Mayaro. How can I withdraw something I was informed about? I was informed.

Madam President: That is hearsay.

Sen. W. Mark: I was informed. Well, if he says it is not true, that is it. I will leave it at that. I hear, he denies; we gone. What is the problem, Madam President? There is no problem.

Madam President, the reason I am raising these points is that I want to draw to the attention of this honourable Senate that the Government, whilst it is attempting to deal with terrorism, violence and criminal activity in our country, it cannot escape from the fact that these are the truths. Whether or not Sen. Dr. Saith wants to admit the truth, it is his business.

When you see in the *Newsday* a headline like this, where the defence counsel to the undercover agent is saying: “Do you know that Bakr has a relationship with Prime Minister Manning?”, Madam President, nobody has denied this. Nobody has queried this. Nobody has come out from the PNM, the ruling party and said that there is not a relationship.

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

Madam President: What is the point of order? [*Interruption*]

Sen. Dumas: You cannot bully me, you know.

There is a relationship between the Prime Minister and Abu Bakr. The Prime Minister is prime minister of a country in which Mr. Abu Bakr is a citizen. That is imputation of an improper motive.

Sen. W. Mark: I am saying to you—

Madam President: I have to make a ruling on the point of order.

Senator, try not to impute improper motives.

Sen. W. Mark: I was just asking a question. It is here. I did not impute anything. I am just saying what I read in the newspaper.

Sen. Dumas: I want us to recognize that things were said here. I am being told I cannot say those things about a Senator. I just want to make sure that we have the same rules.

Madam President: If, as the Senator said, he was reading from the newspaper and he was reading it word for word, then I cannot deny him from reading that. If he is trying to draw a conclusion from what he is reading, and accuses the Prime Minister or anybody else, then I am saying that he is wrong.

Sen. Dumas: Madam President, a point of order? The whole structure of the statement is that this Government is responsible for criminal activity.

Sen. R. Montano: [*Shouting*] But you are!

Sen. Dumas: That is what he is saying. He is trying to give justification. [*Crosstalk*]

Madam President: Senator, for a little while now—for the last 15 minutes or so—you have been, by one statement or the other, saying that the Government [*Interruption*] I have listened to you and I agree that you are carrying it a little too far. Just be careful!

Sen. W. Mark: Madam President, all I am doing is quoting. I will deal with them on the platform, do not worry.

Sen. Dr. Saith: Read the quote!

Sen. W. Mark: All I did was read the quote: “Defence Counsel to Undercover Agent: Do you know that Bakr has a relationship with Prime Minister Manning?” [*Crosstalk*] All I am asking, Madam President, is—

Sen. R. Montano: Do you know that you do not ask questions in court that you do not know the answer to?

Sen. W. Mark: Madam President, I quote from the newspaper again:

“Jamaat helps PNM win marginal seats”

according to Mr. Bakr.

“Jamaat PNM ties revealed”

Express.

“Jamaat won marginal seats for PNM”

in the *Newsday*. All I am dealing with are the facts and I am not imputing improper motives or drawing inference or conclusions at this time. Madam President, you know I am very competent and capable of doing those things on the hustings.

Anti-Terrorism Bill
[SEN. MARK]

Tuesday, June 07, 2005

Madam President, I would like the Government, which has brought this Bill to deal with terrorism, to explain to this Senate why it is seeking to deny, breach and abrogate the rights of citizens of this country. It is an act of terrorism for any high-ranking public official to give instructions to a police prosecutor not to pursue criminal charges against fishermen who were fishing illegally in our waters. That is an act of terrorism, whoever did that. [*Crosstalk*]

Hon. Senator: Who did it?

Sen. R. Montano: The Minister did it.

Sen. W. Mark: Madam President, they asked me who did it; let me quote for them. I want the Attorney General to pay attention because I think the time has come for him to intervene in this matter. I quote an article written by one Mr. Darcus Howe, in the *New Statesman* dated March 15, 2004, page 15. It is a London-based newspaper. I would like the hon. Attorney General to clear the air on this matter.

Hear what the article says:

Prime Ministers from other Caribbean islands busy themselves seeking diplomatic solutions. In the end, the fishermen were released when on the instructions of the Trinidadian Prime Minister, the hon. Patrick Manning, the police offered no evidence.

I am saying that this is an act of terrorism.

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

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

Question put and agreed to.

PROCEDURAL MOTION

The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith): Madam President, I beg to move that the Senate continue to sit until 7.00 p.m.

Question put and agreed to.

ANTI-TERRORISM BILL

Sen. W. Mark: It was Senior Counsel Allan Alexander, in an article on March 13, in the *Newsday*, the headline of which read:

“Anti terror law will expose TT to Terrorists”

He went on:

“Alexander said the Bill seemed confined to the detention of people without charge ‘and on pain of penalty, the compulsion to answer questions on oath and produce documents on the application of a Second Division police officer of the police service.’”

He was talking about the danger of this proposed legislation which is before this honourable Senate at this time.

We would like, when we deal with terrorism, to focus on freedom. This Bill was introduced in a number of countries. I want to bring to your attention some research I did on the worldwide web—and if you want me to quote the actual address, it is www.globalissues.org.

In this article reference was made to the experience in South Africa when they sought to introduce similar legislation. I want to quote some aspects of this particular article, which was written by a South African, Anthony Stoppard, of the Inter Press Service of South Africa. He said, just as the Minister of National Security said today:

“While Government has insisted it has no intention of using the law to obstruct normal political activity, human rights activists insist that this is not good enough...”

It went on to say that the word “terrorism” is highly subjective, highly emotive and contested. Bhota in South Africa, Vorster in South Africa, all used the threat of terrorism to justify their most brutal and repressive laws. A similar piece of legislation was introduced in South Africa in 2004.

Sen. Dr. Saith: 2004?

Sen. W. Mark: Yes, it was in 2004 that they introduced—no, 2003.

Sen. Joseph: Mandela?

Sen. W. Mark: No, Mandela is in retirement long time.

Sen. Dr. Saith: Mbeki?

Sen. W. Mark: Yes.

Sen. Dr. Saith: I just wanted to know.

Sen. W. Mark: Mbeki. That is why, Madam President, when the trade union and the people organized themselves and resisted this draconian piece of legislation, Mbeki had to withdraw it from the Parliament. The masses of the people told the Government of Mbeki he could not introduce that piece of legislation.

“US President George Bush, British Prime Minister Tony Blair also use the ‘terrorist threat’ to justify their invasion of Iraq. Ariel Sharon, the Prime Minister of Israel, routinely refers to the leader of Palestinian Liberation Organisation, Yasser Arafat, and the struggles of the Palestinian people as ‘terrorist’.”

It goes on to say:

“If enacted in its current form, the Bill is likely to make serious inroads into Constitutional rights and freedoms. The broad definition of what constitutes a ‘terrorist act...’”

—and I just read for you the same definition they had in the legislation in South Africa. We have reproduced it here—

“poses a serious threat to our hard won democracy, allowing for legitimate mass action by workers or other social movements at some time in the future to be demonised and categorised as ‘terrorist’.”

This was said by the people of South Africa and when you look at the definition of “terrorist act”, it says if you are seeking to compel the Government “to do or refrain from doing any act”. That is a terrorist act. So the people are under pressure in this country. There is kidnapping, criminal activity, insecurity and fear and the masses assemble in their hundred of thousands and they tell the Government to do something about it. We are compelling the Government to deal with crime. We are compelling the Government to deal with the kidnappers, terrorists and insurrectionists. Are the people to be viewed as terrorists? This is what this is saying, Madam President.

If we compel Government to take action, they can interpret that as an act of terrorism against the State. We are arguing that a repressive regime could use this act to terrorize legitimate protest and legitimate activity. This Bill is not even in force and look at the behaviour of this regime! Look at their attitude! If we take God out of our thoughts and support this legislation, where are we going?

Madam President, under no circumstance would the United National Congress support this legislation. [*Interruption*] Bakr is in your pocket already. He went under oath and said that he campaigned for you. He has a big quarry in Valencia selling gravel to State enterprises, so when they tell us, Madam President, that they want this kind of authority and power—to do what? To murder people in broad daylight now?

We cannot and will not support this piece of legislation. We have already served notice that the day this becomes law in this country, we will test it in the High Courts and we will move to have it struck down as unconstitutional and illegal in this country. So, either they withdraw the measure or water down the provisions sufficiently so that when we take it to the courts, it probably would not hold or stand up, but they cannot pass this Bill in its present form.

As we go through some of the other documents on South Africa—Freedom of Expression Institute of South Africa, the website is www.ifex.org—I am saying that this is a very serious matter. The media—and it is in the Bill here—it states in this article, must wake up over the Terrorist Bill, as custodians of information play an undeniably significant role in giving society a critical voice and in establishing a platform for the exchange of thoughts, ideas and opinions.

6.30 p.m.

Madam President, of special concern to the media industry is the privacy of sources and confidentiality; two core pillars that underpin investigative journalism that will come under severe strain. You would know that in this Bill that is before the Parliament, there are provisions to force media personnel to reveal their sources.

Madam President: Senator, you have five minutes.

Sen. W. Mark: When this Bill is looked at holistically, we see a government seeking to use international conventions and activities that took place abroad, in an effort to bring legislation and laws on the statute books that would undermine the independence of not only our institutions, but will go a very long way in establishing a system that can compromise and abridge the rights and freedoms of citizens. This is a recipe for a Mugabe-type state in this country.

This Government, in the last four years, has attacked almost every independent institution under our Constitution. It has attacked the Judiciary; the Elections and Boundaries Commission; the Office of the Leader of the Opposition, which is an institution under our Constitution; and it has attacked the

Parliament. Why do you think we cannot go on the southern wing so that we can have a second Chamber? It is because “Emperor”, the new “King of Trinidad and Tobago”, wants to make that southern wing his private office. The southern wing of this building is reserved for the Office of the Prime Minister.

How long can we continue? How long can we take this? We draw the line tonight in this Parliament. We draw the line in this country for the world to know, see and hear that enough is enough. We will internationalize this struggle. We will let the world know of this terrorist- oriented administration that we have in this nation. We will do everything in our power, within legitimate means at our disposal, to campaign for the quick, rapid and speedy removal of this fascist, tyrannical and almost despicable and disgraceful regime that we have in this country. This is what we will do and this is what we make a pledge to do.

Thank you very much, Madam President

Sen. Dana Seetahal: Thank you, Madam President. It is accepted internationally that terrorism has grown in the last 10—15 years. Of course, the culmination of that, accepted by many people, was in the 2001 bombings in New York City. In that light, one would imagine that this is where we have the worldwide push for these terrorism Bills. Terrorism has not passed Trinidad and Tobago. In fact, evidence in the Florida courts appeared to reveal that the Jamaat al Muslimeen is a cell of a Pakistani terrorist organization. There was evidence that emerged in that case. It would appear that one group in this country has terrorist connections, so far as being a cell of a terrorist group. We have had reports of Al Qaeda members being in Trinidad and Tobago. Madam President, you and Senators would have heard it. Throughout the last couple of years, there were pictures and there were people saying that they are down here looking for these bodies.

Recently, I believe it was yesterday, we had a report from the Minister of National Security indicating that there are 66 known gangs in this country. It is not unreasonable to believe that one or some of those gangs have terrorist connections. One would think that a Bill which seeks to deal with terrorism—given that it has a worldwide impact, would replace world wars, at some level—it is said that terrorism is the new war—that kind of legislation would be useful.

Throughout the world, Australia, Britain and other such countries, legislation has been passed to give effect to this need to protect us from terrorism. One thing that is certain is that it is recognized that that legislation breaches rights. In fact, in

the English legislation, it was recognized at the outset that there were breaches of the European Convention Rights, but it was passed with that acknowledgement. The problem with this Bill is that there is no such acknowledgement of the several breaches of constitutional rights contained in this Bill.

Section 13 of the Constitution of this Republic says:

“An Act to which this section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5...”

This Bill, which will become an Act, if it is passed, does not so declare. It would mean that if it is passed it would, in my respectful view, be inconsistent with the Constitution, because it would not have been passed with that statement, nor would it have been passed with the required majority.

I have several reasons for saying so, but I will focus on five or six. I would mention the two sections of breach. One is the section 4(a) rights to life, liberty and security of the person and not to be deprived of those rights, except by due process. The second one is section 90, Powers of the Director of Public Prosecutions, which is protected by the Constitution. The first breach is contained in clause 23(4), which states effectively that a person can now be detained for a period up to 14 days. This means that the law, which is currently held by the court, is the practice and has given effect by our case law, that a person shall not be kept in custody longer than 48 hours without being charged—if he is kept in custody for any period further than that, you can go and have a writ of habeas corpus and he will be freed.

Clause 23(4) seeks to extend that period to 14 days. It means that a person who has not been arrested and charged for any offence can be in custody for up to 14 days. If that is not a deprivation of liberty and security of the person, I do not know what is. That is a fundamental change in the law as exists. If there is an enquiry as to where the law is stated, I can furnish that to the persons who wish to know where that is stated, some time in the future. The time is not specified in the Constitution, but our law, which gives us our rights to liberty, says that you should not be detained longer than 48 hours.

Moving along, it is generally accepted that a citizen does not have to answer questions posed by a police officer or a prosecuting authority. The only time you can be so required is if you are called to give evidence in a court of law or at a hearing where the court or tribunal has powers like a court of law; other than that, a police officer cannot—he can stop you on the streets and ask you questions, but

he cannot make you or require that you answer those questions. You have that right. This will be changed under clause 24(3), if the law is passed. Reading clauses 24(3) and 24(4)(b) together, it gives a court the power to order that a person, who the Director of Public Prosecutions thinks can give information, should give evidence on oath. It is stated:

“An Order made under subsection (3) may—

(b) order the examination on oath of the person named in the Order;”

Anybody that you think can give evidence, who has material information, right now, would have that right not to divulge. There might be many reasons that people do not want to divulge; for personal security reasons, obviously. You do not want to be shot, kidnapped, or things of that nature. He will be required now, under this law. If that were not bad enough, under a combination of clause 24(7), which states a person named in an order, under subsection (3), shall answer questions put to him, it also states that he can refuse to do so, on the basis of privilege.

Clause 24(9) says that he shall not be excused even if the thing, document or answer incriminates him.

Clause 24(10) says that you cannot use the evidence, except in the case of perjury. There are three conflicting clauses. But having said that, what remains at the end of the day is that a person can be required to answer and if he lies, that evidence can be used in a case of perjury. Right now, a person can be charged with perjury if he chooses voluntarily, to give evidence under oath and he lies. Here you are mandating somebody, contrary to the existing law, to give information, and you say if he lies he would be charged with perjury and he can then become an accused; so he will lose certain rights, as it were. That is all part and parcel of the legal requirement that this Bill will force somebody to give evidence and it will be a breach of his rights.

Another point is jurisdiction. Clause 25 takes care of that. Under our current law, territoriality is the determinant of jurisdiction. In other words, a country only has jurisdiction to prosecute an offence when it is committed in that country's territory. We can prosecute offences committed in Trinidad and Tobago or in our territorial waters. That would be 12 nautical miles around Trinidad and Tobago. A nautical mile is longer than an average one by 1,000 feet. In our ships, this Bill now purports—*[Interruption]* If we read conspiracy, it would be an extension of territorial jurisdiction, where the act would be completed if it was committed in your country. It does not change the nature of the game, but this changes it.

If we look at clause 25(1)(b)(iii), where the courts will have jurisdiction where the offence was committed outside of Trinidad and Tobago, and the person who has committed, after the commission, is present in Trinidad and Tobago—at clause 25(2) the position is reinforced. It states that an act or omission committed outside Trinidad and Tobago shall be deemed to have been committed in Trinidad and Tobago, if the person who committed it is present. We are talking about jurisdiction based on presence. If the person is in your country, it does not matter where he bombs or where he did whatever, you do not have to take him back to that country. You can charge and try him right here. That is a total shift in the law, vis-à-vis jurisdiction. It moves from territoriality to—not nationality, he does not have to be a national. [*Interruption*] That is the point. To me, that is a fundamental change and it would affect the rights outlined in section 4(a) of the Constitution, security of the person. If a citizen of another country comes to Trinidad and Tobago and his rights are breached, he can sue under our Constitution as we know, because he is here now. All those privy to the immigration law sue. Without getting into the law too much and having debates about that, it is my view that if you are shifting the whole law on jurisdiction, insofar as this is concerned, you need that constitutional provision. You need to say that it is inconsistent.

I can go on, but I would point to another breach of the Constitution, as I see it. This pertains to the question of the DPP's power. Under section 90(3) of the Constitution the Director of Public Prosecutions is the body that institutes and undertakes prosecutions. He gives discontinuances and takes over from other persons. At clause 25(3) of this Act, I do not know if it was intended to change, but it was not. Other parts were changed, where the Attorney General receives information that there may be present in Trinidad and Tobago, a person who is alleged to have committed an offence under this Act, the Attorney General shall—I move directly to clause 25(3)(c), which states:

“indicate promptly to other foreign States which might also have jurisdiction over the alleged offence whether he intends to prosecute.”

The Attorney General has reinforced many, many times, that he has nothing to do with prosecution. The Constitution says that too. That clearly would be a breach of section 93 of the Constitution. Apart from which, of course, it is in direct contradiction of clause 25(4), which deals with:

“...deciding whether to prosecute, the Director of Public Prosecutions shall take into account—”

Clause 25(7) talks about the DPP again. There are those inconsistencies which are separate and apart from the unconstitutionality.

Another point which deals with disclosure—We are talking about the disclosure provisions of this Act that require everyone, who has information at clause 22, to forthwith disclose this information to a police officer not below the rank of sergeant. However, he is not required to do so if it is a breach of privilege. Here again, we are talking about a citizen's right not to give information to the police. You are mandating every single citizen who feels that tomorrow—this happens in the US by the way. I know people who tell me that they sit in a plane and see somebody whom they feel looks funny and they report it. That might be all well and good and might have some use, possibly. Although I think, to have every single arbitrary citizen going around saying: “That person looks like a terrorist” is not really desirable, because you are leaving room for all kinds of suggestions and discrimination. I think you are mandating people to do this now.

If you look at clause 32(4), any person who fails to comply, commits an offence and is liable to conviction on indictment. You are making it an indictable offence for a person who has information that will assist, not even direct information, to prevent the commission by another person of a terrorist act. You might have information that might assist in preventing and if you fail to disclose, you commit an indictable offence. That, it seems to me, is a shift in the law. That would have, in its widest sense, an impact on your freedoms and rights.

Those are serious issues that I think we need to look at in this Bill. I think it is too wide. There are many, many things we need to tidy up. There are issues. Look at the amended clause 32(3), in terms of tidying up. This was passed in the House of Representatives. It states:

“Civil or criminal proceedings shall lie against any person for disclosing any information in good faith pursuant to subsection (1).”

That is what it says: It shall lie. It either means it shall not lie, but it says it shall lie. This is the amendment that was passed in the House. The word “no” may have been omitted. [*Loud sound is heard*]

That might be thunder, I hope, Madam President. It could be a terrorist act. It might be a sign that everything I am saying is of merit. The point is that is an error.

This is a point that the Minister may want to take note of. Clause 33(1) states:

“Every person shall forthwith disclose to the Minister—”

All the other times we are disclosing to police officers. [*Loud sound is heard*]
This thing is sounding serious.

Madam President: There is some work going on at the CLICO building.

Sen. D. Seetahal: Okay. CLICO building? I understand the last time we had the incident; people were on the CLICO building protecting Parliament with similar noises.

Before I complete, I need to point out that clause 33 talks about disclosure to the Minister. I think if we are talking about some kind of separation of authority, should it be the Minister? We are talking about different people. The police, the Minister of National Security, the Attorney General and the Director of Public Prosecutions—we need to know who is who.

Clause 33(3) talks about the matter of financial institution. The requirement by that institution to disclose is too wide.

Madam President, I do not need to continue anymore. I think I have made my point. I think that there are many matters in this Bill that need to be tidied up. Most importantly, I think while it is an admirable thing and a long awaited thing to have some mechanism to deal with the terrorists in our midst, make no bones about it, we have them and we really need to deal with them at some level. I have said it before and that has always been my position. This Bill, if it becomes law, will be struck down for even one out of those points that I have raised.

I think the detention point is the all-encompassing point. I think it must be passed with a special majority and it must be passed in accordance with section 13 of the Constitution. There should be no doubt about that. I also think the Government should pay heed to the drafting of this Bill. There are too many inconsistencies. The Government needs to have more people in the drafting department—I do not know—in order to come before us with this thing tidied up.

When we go to committee stage we do not have time to go through every single thing. You might find something emerging as legislation, which may not be of the best but it is too much to sift through all these things.

In any event, that is all I need to say. The time is 7.00 p.m.

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

Adjournment

Tuesday, June 07, 2005

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 14, 2005 at 1.30 p.m. at which time I trust that we will first do the Motion dealing with the acquisition of land and continue the debate that we have started today.

I wish to advise that in the other place, it is hoped that the Variation of Appropriation Bill will be passed on Friday and I ask that it be circulated soon after that. I want to propose that we debate that on Wednesday of next week. On Tuesday, we will do the Motion on land acquisition, complete the debate on this Bill and on Wednesday we will meet to deal with the Variation of Appropriation Bill. This will give Senators two days to study this. It will be at 1.30 p.m. on Wednesday as well.

I am wondering, in respect of the noise, whether Sen. Mark still wants to proceed with the—

Madam President: Can you go with the noise?

Sen. Mark: We can go. I will speak on my Motion.

Madam President: Hon. Senators, before we take the adjournment there is a matter to be raised on the Motion for the Adjournment by Sen. Mark.

**Escalating Cost of Living
(Government's Failure to Deal With)**

Sen. Wade Mark: Thank you very much, Madam President. My Motion for the Adjournment addresses the issue of the rising and escalating cost of living, particularly for ordinary people in this Republic.

In the *Monetary Policy Report* issued by the Central Bank of April 2005 on page 4, I quote a section dealing with inflation. It says:

“On the inflation front, after remaining fairly well contained for the first three quarters, headline inflation started to rise more sharply in the last quarter of 2004. This was largely due to an increase in food prices, partly related to agricultural food shortages linked to inclement weather and flooding. Other factors contributing to the rise in food prices during 2004 were: (i) the depreciation of the TT dollar against the pound sterling and the Euro which raised the prices of dairy products imported from these markets; and (ii)

a more general rise in commodity import prices relating to increasing demand from fast growing China.

The steady rise in food prices has continued in the first quarter of 2005. In the 12-month period ended March 2005, headline inflation amounted to 7.3 percent, compared with 2.8 percent in the corresponding period a year earlier. Food prices increased by 25.6 percent year-on-year, the highest increase in any 12-month period since 1989. Core inflation measured 2.8 percent in the 12 month period to March 2005, representing a pickup since year-end when the core inflation rate was 2 percent.”

What has happened over the last few years is that there has been an escalation in the cost of basic food prices in this country, to the point where the Central Bank is stating in this monetary report that food prices increased close to 26 per cent and it has been the highest increase in any 12-month period since 1989. How is this escalating cost affecting ordinary people, ordinary housewives and ordinary citizens in the country? I did a little survey of the supermarkets and groceries to show what has happened to the cost of living insofar as ordinary citizens are concerned.

Breeze detergent, a 2 kilogramme pack in 2000, under the UNC was being sold for \$19.99. As of May 31, 2005 that same Breeze detergent is being sold at \$26.99.

We have a situation where a tin of condensed milk, under the UNC period, was sold for roughly \$3.99. Today that same condensed milk is being sold for \$5.99.

A 400 gramme tin of Milo was sold in 2000 for \$12. Today that same 400 gramme tin is being sold for \$23.69 as of May 2005.

A 2 kilogramme pack of flour, which was sold for \$5.15, is now being sold for \$6.99.

One kilogramme of Par Excellence Rice cost \$4.33 in 2002, at the end of May, it costs \$6.49.

A 2 kilogramme pack of Par Excellence Rice which cost \$8.50 in 2000 now costs \$12.69 by the end of May 2005. One loaf of bread was \$4.65, it is now \$6.90.

A 200 gramme tin of coffee was \$31, now it costs \$34.65. It is not a major increase but it is an increase.

Escalating Cost of Living
[SEN. MARK]

Tuesday, June 07, 2005

A pack of salt fish—ordinary people like to deal with that—cost \$12 a kilogramme in 2000, today that same kilogramme of salt fish is being retailed at \$26.84.

One litre of oil is \$40. There is a 40 per cent duty on that; it was approximately \$9.99 in 2000, it is approximately \$11.69.

Fresh chicken, averaging 4.5 to 5 pounds cost \$20 in 2000, today it is more than \$28 for that said chicken. Not to mention frozen, which once cost \$21 in 2000, in 2005 it now costs \$32 since the end of May.

Cheddar cheese from New Zealand once cost \$19. It now costs \$24.

A 400 gramme pack of macaroni was \$1.99; it now costs \$3. The 800 gramme was \$3.99 but it now costs \$6.

These increases are having a very negative impact on the quality of life of ordinary people. We have been calling on this Government to increase food supplies and embark on a revolutionary agricultural programme. Instead of CEPEP being allocated \$400 million for the cleaning of drains, cutting of grass and the painting of stones, they should be engaged in productive agricultural work. China, India and Malaysia have produced 700 new customers and consumers in the world and they are demanding the same products that we demand in the Third World and developing countries. They do not have increases. The minimum wage is a measly \$9 per hour. A CEPEP worker works for \$75.00 per day, that is \$1,200—\$1,300 per month. You cannot live on that! That explains why the crime wave continues to rock this nation, even though the price of oil is over US \$50.

The distribution of wealth and income continues to be uneven. There is no equity or equality in the distribution of wealth and income amongst the nation's citizens. The rich are becoming richer and the poor are becoming poorer. This is a reality. We are calling on the Government to give some kind of undertaking and to make some kind of statement to indicate to the population—those people who are oppressed, exploited and unable to make two ends meet—the kind of intervention it will be making to help cushion the escalating cost of living for poor people. What is happening in essence is that the quality of life of the people and the standard of living continue to fall. Their conditions are worsening in the face of all this new revenue that is coming in from the energy sector.

I raise this point about the cost of living and the continued escalation in the prices and we would like the Government to make a statement to tell the nation how it is going to cushion this. I do not know if it is price control. I believe that

we need to engage in agricultural production. I think it is a supply question. We have to increase the supply of basic agricultural products in order to deal with the escalating cost of living and the high cost of basic goods and services for poor ordinary citizens who are finding it very difficult to live.

In closing, if the Government continues to ignore the cries and pleas of the ordinary citizens, this is going to escalate. People are becoming desperate and I think the time has come for the Government to intervene and do something about cushioning the increasing cost of living that is impacting negatively on large sections of our population.

I thank you very much, Madam President.

The Minister of Legal Affairs (Sen. The Hon. Christine Kangaloo): Thank you very much, Madam President. I rise to speak on this Motion which was set out by Sen. Wade Mark: the failure of the Government to effectively deal with the escalating cost of living, resulting in the continuous lowering of the standard of living of many citizens.

The first thing I want to point out is that increases in prices of goods; provided that they are counter-balanced by effective social and economic support strategies, do not necessarily result in a lowering of the standard of living.

Secondly, I ask that we remember, particularly in the case of buoyant economies such as ours, that price increases over time are inevitable. They are not necessarily the symptoms of governmental failure, either in macro or micro-economic policy or planning.

The third factor, Sen. Mark spoke about it, is that modern economic policy, to which Trinidad and Tobago and the majority of the free world subscribe and emphasize free trade, with limited intervention by governments in the workings of the marketplace. It would be misleading to suggest, if that is what the Motion is in fact doing, that a government that is slow to legislate price controls or to introduce price subsidies, is failing to deal effectively with increases in general prices.

I want to point out that Sen. Mark, in his presentation, compared the prices of condensed milk under the UNC to prices of condensed milk now and also the escalation of food prices from 1996—2001. In 1996, there was a 12.2 per cent increase; in 1997, 9.5 per cent; in 1998, 14 per cent; in 1999, 10 per cent; in 2000, 14 per cent; and in 2001, 7.5 per cent. Overall between 1995—2001, the cost of food in the country escalated by 88 per cent.

Hon. Senators: Ooh goo-ood!

Sen. The Hon. C. Kangaloo: That is what we were hearing when we were comparing condensed milk.

Sen. Abdul-Hamid: “And people did not have money.”

Sen. Mark: We do not want 88 per cent.

Sen. The Hon. C. Kangaloo: Among other things, the Motion asserts that there has been a continuous lowering of the standard of living in Trinidad and Tobago. Nothing could be further from the truth.

In contemporary socio-economic planning, a country's standard of living is judged by reference to a group of indicators comprising what is termed the Human Development Index (HDI). Movements in a country's HDI determine the level of its standard of living. It is by reference to movements in this country's HDI that the falsity of the underlying assumption of this Motion is laid bare. Contrary to the suggestion of a lowering in this country's standard of living, Trinidad and Tobago's HDI shows clearly that the country's standard of living has been steadily increasing.

In its 2004 *Human Development Report*, the UNDP ranked Trinidad and Tobago as 54th among 177 countries, in terms of human development. Currently, this country's HDI is above the average for developing countries and for Latin America and the Caribbean. In fact, under the HDI classification, Trinidad and Tobago's level of human development is comparable to those of several highly-developed countries.

Madam President, I must add that in 2000, Trinidad and Tobago was ranked as having a medium human development index as opposed to a high human development index in 2004.

Sen. Mark. I feel sorry for “yuh” girl.

Sen. The Hon. C. Kangaloo: Madam President, as is so often the case, in relation to pronouncements by those on the other side, the facts give the lie to their rhetoric. [*Desk thumping*] In dealing with the standard of living that Sen. Mark says is being lowered; the continuous lowering of the standard of living, some critical areas of basic goods and services to be provided to the citizenry must be looked at, especially in the areas of food, housing, health care and education.

As part of our Vision 2020 plan, this Government's stated policy is to increase the food security of the people of Trinidad and Tobago. In achieving

this policy objective, the Government is implementing a number of programmes intended to increase the availability of food, as well as, increase the population's access to food.

Sen. R. Montano: How are you going to do that?

Sen. The Hon. C. Kangaloo: We must note that food security exists when all citizens, at all times, have physical and economic access to sufficient, safe and nutritious foods to meet their dietary needs, and food preferences for an active and healthy life.

Sen. R. Montano: Excellent rhetoric, now how are you going to do that?

Sen. Dumas: Wait “nah”, wait.

Sen. The Hon. C. Kangaloo: This Government has a number of fully integrated strategies for combating poverty and food insecurity, which involve the formulation of an Agricultural Sector Policy that emphasizes food security as a primary objective. Strategies in this policy include producing more of what we consume and reducing the food import bill.

Sen. R. Montano: How are you going to do that?

Sen. Abdul-Hamid: Oh God! Hush “nah” man!

Sen. The Hon. C. Kangaloo: Institutional strengthening of the Ministry of Agriculture, Land and Marine Resources; formulation of strategic plans; strengthening of research and extension capabilities; improved staff training and recruitment of additional professionals.

Sen. R. Montano: Sounds good baby, but how are you going to do that?

Madam President: Please, Senator! I do not think you refer to a Member of this House as “baby”.

Sen. R. Montano: It is crosstalk, Madam President.

Madam President: Never mind.

Sen. R. Montano: You were not supposed to hear that.

Madam President: I was not supposed to, but I heard it. Please continue.
[*Laughter*]

Sen. The Hon. C. Kangaloo: To think, Madam President, I did not. I have not been called “baby” in a long time. [*Laughter and desk thumping*]

The Ministry of Agriculture, Land and Marine Resources is implementing programmes to increase food production and making more resources such as seeds, credit and technical support available to farmers and is promoting an accelerated land distribution programme and improved training for farmers. The Ministry is improving the strategic sub-sector initiatives that include revitalization of the cocoa industry, development and integration of the poultry industry, development of the honey industry, and revitalization of the rice industry. The Ministry has invested heavily in strengthening its marketing arm, NAMDEVCO, and it is now better prepared to explore and acquire new markets for agriculture commodities.

The development programme for the sector includes initiatives to improve the sustainability and efficiency of food production.

Sen. R. Montano: What planet are you from?

Sen. The Hon. C. Kangaloo: The Ministry has embarked on an accelerated community-based vegetable and food crop production programme, which will improve citizens' access to fresh and nutritious vegetables within the various communities.

Sen. R. Montano: You got to be kidding me!

Sen. The Hon. C. Kangaloo: Associated with this programme is the Grow Box Programme, where Government is encouraging the production of fresh and nutritious vegetables in areas where land is a serious constraint.

Government is recruiting and training the next generation of farmers through its YAPA programme, because it has noted that the present farmer population is above a certain age and it recognizes that it needs to attract and recruit young farmers in the sector. We are hearing a lot about what we should do for farming. I want to point out that the food security for Trinidad and Tobago was in serious jeopardy during the period 1995—2001.

Let me demonstrate by way of some statistics, the performance of the agriculture sector, during the period 1995—2001.

- The contribution of agriculture to GDP decreased from 5 per cent—1.4 per cent;
- The growth rate in the crop sub-sector decreased from 1.9 per cent—(-) 1.8 per cent.

Sen. Abdul-Hamid: That is under Jennifer?

Sen. The Hon. C. Kangaloo: Cocoa production declined. Sugar production from local cane declined, from 131,000 tonnes—91,000 tonnes. Coffee declined. Citrus production declined. But I am being asked what planet I am from.

We inherited an agricultural sector where the drainage, irrigation and access road infrastructures were in a dilapidated state, through lack of maintenance. Despite all of this, as I have stated, this administration is now investing heavily into the agriculture sector, to make us more self-sufficient in our food production.

Sen. R. Montano: Excellent! Rah, rah! [*Desk thumping*]

Sen. The Hon. C. Kangaloo: Madam President, the cost of housing is one of the more significant cost items to the average household in Trinidad and Tobago.

Sen. R. Montano: And that is going down!

Sen. The Hon. C. Kangaloo: The quality and cost of housing is also a very significant factor affecting the standard of living of our citizens.

Sen. Abdul-Hamid: “How much house all yuh build?”

Sen. The Hon. C. Kangaloo: As you know, Madam President, this Government is committed to making good quality housing available and affordable to all our citizens. [*Desk thumping*]

Madam President, since 2002, approximately 3,100 keys have been handed out for new homes.

Sen. R. Montano: Only?

Sen. The Hon. C. Kangaloo: Some 6,300 houses are now under construction and between October and December 2005, the construction of approximately 8,000 new homes should begin. We should compare that with what I heard—something about 600 houses being built in six years.

This Government also recognizes that the standard of living of citizens can be seriously impacted upon by the availability and cost of health care services. Government has therefore embarked on initiatives to make health care services more available, accessible and affordable for all our citizens. We should all look at page 67 of today’s *Express*.

Madam President: Senator, you have three minutes.

Sen. The Hon. C. Kangaloo: From October 2004—March 2005, in a period of six months, 15,323 surgical procedures were performed. [*Desk thumping*] At present, we have expanded the scope and eligibility of CDAP so that all citizens are able to access free medication through the programme. [*Desk thumping*] Approximately 110,000 individuals are accessing CDAP.

Let me go on as I have limited time. As you know, the Government is committed to quality education. Just look at what we are doing by way of the increase in access to universal and pre-school education, the establishment of the University of Trinidad and Tobago and the provision by the School Nutrition Programme of 140,000 meals per day. [*Desk thumping*]

Sen. Abdul-Hamid: All that is standard of living.

Sen. The Hon. C. Kangaloo: All that points to what we are doing to maintain a proper standard of living for our citizens. [*Desk thumping*]

The figure for tertiary education shows that the 2001 enrolment at UWI was 8,629. In 2004/2005, it is now standing at 13,489.

Sen. Abdul-Hamid: That is GATE.

Sen. The Hon. C. Kangaloo: In 2001, the enrolment at COSTAATT was 1,956. In 2004, it was 4,763. Apart from all of this, the Government has increased the old age pension, public assistance and disability grants. It has increased the number of SHARE hampers from 15,000—20,000 per month. We have increased the minimum wage to \$9.00 per hour.

Madam President: Minister, you have one minute. You need to wind up.

Sen. The Hon. C. Kangaloo: Thank you. I am so sorry to run out of time. The facts are that this Government has dealt effectively with increases in prices, by introducing counter-balancing, social and economic measures to maintain and improve the country's standard of living.

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

Sen. D. Montano: Boom, boom! [*Laughter and crosstalk*]

Madam President: I can see some little boys playing sling shot on both sides of the Senate today.

Question put agreed to.

Senate adjourned accordingly.

Adjourned at 7.23 p.m.