

**SENATE***Tuesday, July 19, 2005*

The Senate met at 10.30 a.m.

**PRAYERS**[MR. VICE-PRESIDENT *in the Chair*]**LEAVE OF ABSENCE**

**Mr. Vice-President:** Hon. Senators, I have granted leave of absence to Sen. The Hon. John Jeremie.

**SENATOR'S APPOINTMENT**

**Mr. Vice-President:** Hon. Senators, the instrument of appointment for his replacement has not yet arrived, so that I would have to defer the appointment of a new Senator to later in the proceedings.

**FINANCE BILL**

Bill to provide for the imposition of variation of certain taxes and to introduce other provisions of a fiscal nature and for related matters, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

*Motion made,* That the next stage be taken at a later stage of the proceedings.  
[*Hon. C. Enill*]

*Question proposed.*

**Sen. Wade Mark:** Mr. Vice-President, I would like to seek your advice and possible ruling on a procedure arising out of this Bill and I want to draw your attention to Standing Order 37(1) and (3) to this effect. I would also like you to refer to Standing Order 62, which deals essentially with a particular provision contained in the legislation which is properly before the Senate, as you are well aware. The Minister of Finance has incorporated the National Lotteries Control Board provisions, which are contained in a Bill that reads No. 4 on the Order Paper. I did learn, some time ago that was his intention and I did advise the Clerk of the Senate that it was going to be extremely inconsistent with the Standing Orders. Nevertheless, the Minister has proceeded to incorporate into a Finance Bill matters that are extraneous and were not deliberated in the budget of 2005. Therefore, I would like you to pay close attention and to give us some advice whether we can deliberate on a matter that is properly before this Senate as Bill No. 4, and in the Finance Bill that we have before us today, which the Minister has just moved, there are the same provisions contained in the particular Finance

Bill. It is a very awkward situation for us and, therefore, it is either the Government moves to have that entire provision deleted from the proceedings, or you would have to rule on this matter.

Every Senator would be constrained to debate on a matter that we cannot anticipate. You would see in Standing Orders 37 and 62, as I indicated, that we cannot anticipate a Bill that is before the Parliament and there is a Bill on the Order Paper on the National Lotteries Control Board, which is Bill No. 4. The Minister would have the responsibility today, of either withdrawing that provision in the Bill that is now before the Senate, or you would have to—[*Interruption*]

**Sen. Dr. Saith:** We will withdraw the Bill.

**Sen. W. Mark:** No, you cannot withdraw the Bill today. You have to serve notice. This is a very awkward situation and I think that you would need to get proper advice on this one.

I also want to draw to your attention certain provisions in the legislation which did not form a proper part of the Minister of Finance's Budget Statement of 2005. [*Interruption*] I am asking, Mr. Vice-President. [*Interruption*] You cannot interrupt me; I am addressing the Vice-President. There are extraneous matters in the Finance Bill that is before us. There is something on the Caribbean Court of Justice (CCJ) which did not come up in the budget debate. There is something on the securities industry that did not come up in the budget debate. The most important one is the National Lotteries Control Board Bill that is now on our Order Paper as Bill No. 4. The Government needs to serve you and this Senate with proper notice. No one could come and say that they are going to withdraw X Bill today; that is improper. I would like you to rule on this matter.

I think the Government has an option; they can withdraw the Bill at a later date but whilst they are doing so, they will also have to withdraw from the Finance Bill, that particular provision. I seek your ruling, guidance and advice.

**Mr. Vice-President:** Hon. Senators, in relation to the concern raised by Sen. Mark, I shall have to ask for a little time. I would like to consider this and after question time I will take a decision on it. Thank you.

**PAPERS LAID**

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Arima Corporation for the year ended September 30, 1999. [*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 Mayaro/Rio Claro Regional Corporation for the financial year ended September 30, 1999. [*Sen. The Hon. C. Enill*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Mayaro/Rio Claro Regional Corporation for the financial year ended September 30, 2000. [*Sen. The Hon. C. Enill*]
4. Annual audited financial statements of First Citizens Holdings Limited for the financial year ended September 30, 2003. [*Sen. The Hon. C. Enill*]
5. Annual audited financial statements of First Citizens Holdings Limited for the financial year ended September 30, 2004. [*Sen. The Hon. C. Enill*]

**ORAL ANSWERS TO QUESTIONS****International Steel Group  
(Status of Investigations)**

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

- (a) Could the hon. Minister advise whether an official investigation has been initiated into the incident on or about May 19, 2005 at the Point Lisas Plant of International Steel Group which resulted in the death of Dale Paul and injury to other workers;
- (b) If yes, when was the investigation started; who are the members of the investigating team, their respective positions and affiliations; what are its terms of reference; what are the preliminary findings of the incident itself and what is the expected date of completion of the investigation; and
- (c) If not, what are the reasons for the non-appointment of an investigation team?

**The Minister of Labour and Small and Micro Enterprise Development (Sen. The Hon. Danny Montano):** Mr. Vice-President, an official investigation has been started into the incident that occurred on May 18, 2005 at the Point Lisas Plant of International Steel Group. The investigation started on May 19, 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. Colin Gaskin, ISO I and Miss Marsha Ramlal, ISO I.

The terms of reference for the investigation were as follows: to determine the cause of the accident, to make recommendations and to prevent recurrence and to identify any breaches of the Factories Ordinance, Chap. 30:02 or any regulations/orders made thereunder.

With regard to the findings of the incident, the evidence collected to date is inconclusive and the investigation is continuing. Barring unforeseen circumstances, it is expected that the investigation would be completed around the middle of July 2005.

Part (c) is not applicable, therefore.

**Sen. Ali:** Mr. Vice-President, my question asked for the terms of reference, which the Minister has addressed and what are the preliminary findings of the incident. Is it not a fact, that this is deemed a very simple investigation, because it is a non-operating plant? It is really a plant in the process of maintenance. There is no operation of a big plant. It is my understanding that there are no other causes.

**Sen. The Hon. D. Montano:** I am not quite sure what the question was. The only findings that I have in my possession at this point are the facts that occurred. I think everybody understands what the facts are. In terms of findings, the terms of reference—*[Interruption]*

**Sen. Ali:** We do not know what the facts are. It has never been reported to anybody, so please give us the facts if they are there.

**Sen. The Hon. D. Montano:** Senator, I have no report in my hands. No report has been presented to me at this time. I said quite clearly, with regard to the findings of the incident the evidence collected to date is inconclusive. I have no report on any circumstances. I have discussed the matter with the officers. I have no formal report at this time. If you would like to file a question in a week or so, so that I can give you a full report when I get it, I will be happy to do so.

**Sen. Ali:** Mr. Vice-President, in the Minister's reply to (b) of this question he said the report would be completed on July 15. Today happens to be July 19<sup>th</sup> and he still does not know what the preliminary findings of this accident are. Something must be terribly wrong because not even the public knows anything about what happened that day on a plant which was shut down. There was a fire and a man was killed. Those are the facts we know but that is not what I am talking about. I am talking about findings.

**Sen. The Hon. D. Montano:** Mr. Vice-President, I appreciate the comments of the Senator. I did not say July 15, I said approximately the middle of July. The *Hansard* would recall that very clearly. I made it very clear that I have no report, and with the greatest of respect I cannot fabricate one out of thin air. I am dependent on the officers to provide me with the report and I am sorry that the Senator is dismayed at the response.

However, I have had discussions with the Senator on this matter just a few days ago; last week at the last sitting. I indicated to him what I knew of the incident so far; that I had no formal response. It is a little disappointing to come here at this point and to have a bit of a charade going on in front the news media. [*Interruption and crosstalk*] But, however, if he wishes to file—

**Sen. Ali:** Mr. Vice-President, I take great exception to that.

**Sen. The Hon. D. Montano:** I am still on my legs.

**Sen. Mark:** You are attacking the Independent Senator.

**Mr. Vice-President:** Please, Sen. Ali! Okay. Were you finished, Mr. Minister?

**Sen. The Hon. D. Montano:** Yes.

**Mr. Vice-President:** Sen. Ali, you may continue.

**Sen. Ali:** I take exception to what the hon. Minister said, because we have never discussed privately, this particular accident or incident, whatever he chooses to call it. We have discussed Shivam Harrylal and that report is supposed to be due in July also. That is a more difficult one. I am not going to ask another question. Bring on OSHA.

**Sen. The Hon. D. Montano:** If I may, for the record. The hon. Senator is misleading the Senate. We spoke very clearly last week, about what direct reduced iron was and he was explaining it to me. I spoke to him about what I

knew of the circumstances. We had a very clear and frank discussion and he understood more of the facts and the circumstances than I did.

**Sen. Ali:** Mr. Vice-President—

**Mr. Vice-President:** Hon. Senators, Sen. Ali!

**Sen. Ali:** Sorry.

**Mr. Vice-President:** The Minister has clearly stated that he does not have a report, in which circumstances he could not give you the findings. I am now going to ask the Minister to try and get that report and make the findings available to this Senate by the next sitting. [*Desk thumping*]

**Chancery and High Commissioner's Residence  
(Detailed Cost of Refurbishment)**

**88. Sen. Wade Mark** asked the hon. Minister of Foreign Affairs:

- (a) Could the Minister provide to the Senate a detailed estimate of both the original estimate, revised estimate, and final cost in respect of the refurbishment of the Chancery and the High Commissioner's residence in London; and
- (b) Could the Minister further provide the rationale for the variation of costs between the original estimates and the final cost?

**Sen. Mark:** Mr. Vice-President, I have discussed the matter with the hon. Minister of Foreign Affairs with respect to questions Nos. 88, 89 and 90 and we have agreed that they would be deferred until the next sitting. Questions 88, 89 and 90 I have agreed to have them deferred until the next sitting, next Tuesday, Sir.

**Mr. Vice-President:** Sen. R. Montano is not here.

**Sen. Mark:** He is not here. If the questions are ready, Sen. Dr. Saith would have to—are the questions ready?

**Sen. Dr. Saith:** To my understanding the Minister of Works and Transport spoke to Sen. R. Montano and they have agreed that the questions be deferred for two weeks. That is the word I got from the Minister of Works and Transport.

**Sen. Mark:** I am not aware of that, but if he has given that as an undertaking based on what you have said.

**Sen. Dr. Saith:** To be doubly sure we can defer for one week and then defer for another week.

**Sen. Mark:** I think that might be safer. I think a week is good and we could always discuss that next week.

*Question, by leave, deferred.*

*The following questions stood on the Order Paper:*

**Trinidad and Tobago Overseas Embassies  
(Repairs and/or Alterations to)**

- 89.** Could the hon. Minister of Foreign Affairs inform this Senate whether any repairs and/or alterations were done or proposed to be executed to any other Trinidad and Tobago Missions/Embassies overseas and the accompanying costs involved during the period January 01, 2002 to the present time? [*Sen. W. Mark*]

**Honorary Consul  
(Details of)**

- 90.** (a) Could the hon. Minister of Foreign Affairs state whether there is an Honorary Consul for Trinidad and Tobago in South Africa;
- (b) If the answer is in the affirmative, could the Minister indicate the period of tenure of the same Honorary Consul; and
- (c) Could the Minister further state the name of the Honorary Consul, address in South Africa during his/her tenure as well as the terms and conditions governing his/her appointment? [*Sen. W. Mark*]

**Port Authority  
(Displacement/Retrenchment of Workers)**

- 91.** Would the hon. Minister of Works and Transport state how many workers at the Port Authority will be displaced and/or retrenched by the proposed privatization/dismantling or re-organization of the Port Authority of Trinidad and Tobago (PATT)? [*Sen. R. Montano*]

**Port Authority Pension Plan  
(Details of)**

- 92.** A. Would the hon. Minister of Works and Transport inform the Senate:
- (i) How much money is currently in the pension plan for the workers of the Port Authority of Trinidad and Tobago; and
- (ii) How much surplus is in the said pension plan?

- B. Would the hon. Minister also disclose the plans, if any, to distribute the surplus in the pension plan to the workers who will be retrenched and/or displaced by the Port Authority of Trinidad and Tobago? [*Sen. R. Montano*]

**Port Authority and  
Seamen and Waterfront Workers' Trade Union  
(Details of Discussions)**

93. A. With specific reference to the takeover of the supply of labour and/or to carry out any of the functions and/or services currently being provided by the Port Authority of Trinidad and Tobago, would the hon. Minister of Works and Transport inform this Senate whether any discussions or negotiations have been, are being, or are intended to be held between:
- (i) The Port Authority of Trinidad and Tobago (PATT) and the Seamen and Waterfront Workers' Trade Union (SWWTU) and/or any of the unions' officers; and
  - (ii) the PATT and/or any private company or any of its representatives in which the SWWTU and/or any of its officers have a direct or indirect interest?
- B. If the answer to (i) or (ii) above is in the affirmative, would the Minister state:
- (i) the names of the SWWTU officer(s) and/or affiliated company and/or its representatives with whom the PATT held discussions;
  - (ii) the dates of the discussions; and
  - (iii) the names and value of the contracts under consideration?  
[*Sen. R. Montano*]

*Questions, by leave, deferred.*

**WRITTEN ANSWER TO QUESTION**

*The following question was asked by Sen. Wade Mark:*

**HIV/AIDS  
(Government's Intention)**

17. (a) Could the hon. Minister of Health state whether the Government intends to take steps to make HIV/AIDS a notifiable disease especially in



light of recent international reports on the high incidence of infection in Trinidad and Tobago;

- (b) Further, would the Minister state whether it is the intention of this Government to provide hospices for the care and treatment of patients who have tested positive for HIV/AIDS; and
- (c) Could the Minister also state whether the Government is prepared to establish a policy to govern behaviour towards persons with HIV/AIDS in the workplace?

*Vide end of sitting for written answer.*

**TOURISM DEVELOPMENT (AMDT.) BILL**  
**House of Representatives Amendments**

**The Minister of Tourism (Sen. The Hon. Howard Chin Lee):** Mr. Vice-President, I beg to move,

That the Senate concur with the House of Representatives in its disagreement with those Senate amendments to the Tourism Development (Amdt.) Bill, 2004 listed in Appendix III.

*Question proposed.*

**Sen. Mark:** Are you going to put it and then he will explain it?

**Mr. Vice-President:** Do you want an explanation?

**Sen. Mark:** No, he explained it the last time and we have to respond. Did you not explain it? It is our turn because he did in fact move and we have to respond before the question is put. Is that not how it is done, Mr. Vice-President? Let him move it again a second time. Let him explain it to us again.

**Sen. The Hon. H. Chin Lee:** It was approved in the Senate before, when this particular Bill was debated, that under section 6 of the Tourism Development Act, that Sen. Seetahal had proposed the words "Hotel Development" be inserted in front the words the "Act" only to find out afterwards that the particular Act that was referred to was really the Tourism Development Act. If you refer to section 6 of the Tourism Development Act, it refers to "tourism projects". Under the

definition, “tourism projects” really refer to the Tourism Development Act. The Hotel Development Act has nothing to do with tourism projects.

If you look in the Tourism Development Act, you will find that the definition of “tourism projects” is as follows: a project set out in Schedules 2, 5 and 6 and involves activities listed in Schedule 4. You can go on to look at the Schedules under the Act, which refer to “tourism projects”.

It was an oversight by the Senate when we all thought that this particular Act referred to the Hotel Development Act when it really meant the Tourism Development Act. Therefore, we are asking to withdraw that and to go with the recommendation as stated in the Senate: In subclause (5) delete the word after the word “Minister” and insert the words “in any event not earlier than the date of proclamation of this Act.” That will continue. However, we wish to retract that particular recommendation which states that the words “Hotel Development” must be placed before the “Act”.

I beg to move.

**Sen. W. Mark:** Mr. Vice-President, may I draw to your attention that with the best of intentions of the hon. Minister on this particular matter, which is very simple, as he has indicated that an error has taken place, but the moment the House disagrees with our Senate, there are options available to this particular Senate, whenever there are disagreements which supersede the Standing Orders. I want to refer to the Constitution of the Republic of Trinidad and Tobago.

If you go to section 65(5) of the Constitution, you will see whenever there are disagreements—*[Interruption]*

**Sen. Dr. Saith:** I do not think there is a disagreement. What the House did was corrected an error. There was no disagreement; it is either there was an error or there was no error. I think the Senator is talking about disagreement of policy or disagreement of law. It is a minor error. With all due respect, I think the Senator is creating a debate where there should be none.

**Sen. W. Mark:** I say with respect to my colleague, I said it was a minor amendment.

**Sen. Dr. Saith:** Correction.

**Sen. W. Mark:** Correction. What, however, came to this Senate was a rejection. First of all it was a rejection. The language was a rejection. *[Interruption]* Allow me to speak “nah” man. You cannot speak whilst I am speaking man.

**Sen. Dr. Saith:** Like you win the elections or what?

**Sen. W. Mark:** Mr. Vice-President, would you give me some protection so that I can address you properly? I cannot deal with these kinds of unnecessary interruptions.

**Mr. Vice-President:** Please, Senators!

**Sen. W. Mark:** In the middle of my contribution, they are interrupting me. May I address you?

**Mr. Vice-President:** Continue, please.

**Sen. W. Mark:** I know and I agree with my senatorial colleague, it is a minor correction. I was just seeking your guidance. I raise this matter so that you can guide the Senate on this matter. Even though our Standing Orders say we can proceed along a certain path, if you go to the Republican Constitution, once there is a disagreement—this is what is before us, we had advanced a particular amendment, the other place rejected our amendment, and corrected what we sent down. What came before us last week was a rejection. What came to us this week, if you look at the Motion, is a disagreement; not a correction. That is not before us. What is before us is a disagreement. I just wanted to bring to your attention what the Constitution says on this matter. This is the supreme law of the land; not the Standing Orders; it supersedes the Standing Orders.

If you look at section 65(5), it tells you whenever there are disagreements between matters that go before the House of Representatives emanating from this Senate, there is only one course of action open to us in those matters. This particular provision stands as part of the Bill being rejected by this Senate and as such you have to go through the process of reintroducing an amendment.

We can run afoul of the Constitution. I will not be taking part in that part. *[Interruption]* You cannot tell me to sit down, you are out of place; totally out of place. I draw it to your attention because everyone here adheres to the Constitution of this Republic. I do not believe that the Government will want to violate the provisions of this Constitution. The Independent Senators would not want to do that and not us in this Opposition Bench.

I seek your guidance. Whilst I agree with Sen. Dr. Saith that it is a simple change, what we have to deal with are the rules that govern us. That is why I would like to get your guidance on this matter, as simple as it may seem. It is not a simple amendment; it is a disagreement that has arisen, that caused the other place to reject our amendment.

In those circumstances, even though I have no difficulty with the amendment before us, I was concerned with the rules and the procedures involving such an amendment. This is why I have drawn it to your attention so we do not run afoul of the Constitution of the Republic of Trinidad and Tobago. That is all I have brought to your attention. I would like your ruling because I would not take part in a matter that runs afoul of our Constitution, until we have changed that Constitution.

I submit it for your consideration, advice and ruling on this matter.

**Sen. Dr. Saith:** While I respect Sen. Mark, I do not believe that he is the one to be giving legal, constitutional advice on this matter. [*Interruption*] Your interpretation—

**Sen. Mark:** Get the President to give legal advice and we will stand down with this matter.

**Sen. Dumas:** Obstruction.

**Sen. Dr. Saith:** Please. I am merely suggesting that we proceed. If it turns out that the Senator is right, there are remedies. I do not accept Sen. Mark's legal interpretation. The Government does not accept it.

**Sen. Mark:** You are not the person in charge. He will have to seek advice. You have no legal authority to say that I am wrong, because you have no training. That is why I am seeking arbitration on this matter. I want guidance and support of the amendment. I do not want to run afoul of the Constitution. There are rules. We are just seeking advice.

**Mr. Vice-President:** Hon. Senators, in view of the fact that it is clearly explained that this is a simple correction, I would have to move the question and if need be, we put it to a vote.

*Question put and agreed to.*

*New clause 6:*

*House of Representatives amendment read as follows:*

Insert a new clause 6 immediately after clause 5 as follows:

Section 6(1) of the Act is amended by inserting immediately before the word "Act" the words "Hotel Development".

**Sen. Chin Lee:** Mr. Vice-President, I beg to move that the Senate doth disagree with the House of Representatives in the said amendment.

*Question proposed.*

*Question put and agreed to.*

*Clauses 6 to 24:*

*House of Representatives amendment read as follows:*

Renumber clauses 6 to 24 as 7 to 25 respectively.

**Sen. Chin Lee:** Mr. Vice-President, I beg to move that the Senate doth disagree with the House of Representatives in the said amendment.

*Question proposed.*

*Question put and agreed to.*

#### ARRANGEMENT OF BUSINESS

**Mr. Vice-President:** In view of the fact that there has been considerable concern expressed by Sen. Mark and I have heard the voices of some Independent Senators, I would like to take a 10-minute suspension and discuss the Finance Bill with the Leader of Government Business, the Minister in the Ministry of Finance, the Leader of the Opposition and the Leader of the Independent Benches.

The Senate will be suspended for 10 minutes.

**11.07 a.m.:** *Sitting suspended.*

**11.35 a.m.:** *Sitting resumed.*

**Mr. Vice-President:** Hon. Senators, first of all let me apologize for having taken as long as we did in discussing the matter that we had to discuss in relation to today's Bill. The decision is that because the Bill does not qualify as a money Bill, the Bill will be discussed as is and at committee stage whatever necessary amendments will be made.

I was about to put the question when Sen. Mark raised his concern. Therefore, I shall now put the question on the Bill.

#### FINANCE BILL

*Question proposed, That the next stage of the Bill be taken at this time.*

*Question put and agreed to.*

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

That a Bill to provide for the imposition or variation of certain taxes and to introduce other provisions of a fiscal nature and for related matters, be now read a second time.

Despite prevailing uncertainties in the global arena, the Trinidad and Tobago economy continues to register strong, positive growth with real gross domestic product (GDP) growing at closer to 7.7 per cent in 2004, accompanied by a subdued core inflation of approximately 1.63 per cent; of course, there is a spike in the food component of this—based on the information that we have seen it has started to reduce—and a further strengthening of the balance of payments.

Amid these buoyant economic conditions, the financial sector also registered significant growth and continued rapid transformation. Notwithstanding this very encouraging trend, the major challenge for the Government lies in ensuring that there is social equity and robust expansion in the non-energy sector, which grew by a mere 2.9 per cent in 2004.

The key medium-term objectives for the period 2005—2007 include among others:

- promoting an equitable society by working relentlessly towards the eradication of poverty and reducing imbalances in the society;
- developing our human resources with a view to producing a competent, productive and knowledgeable workforce; and
- sustaining robust economic growth by pursuing sound macro-economic management and targeting key economic sectors towards higher value-added activities.

Mr. Vice-President, the Bill that is before us today will deal with a number of measures, all intended to provide additional benefits to our citizens in very specific ways. These measures will improve the quality of life for many of our citizens and will also improve the effectiveness of some of our institutions. In summary, we propose to achieve the following:

- The National Lotteries Control Board (NLCB) which we would amend at committee stage. That amendment was simply to amend the law to allow the board to apply its revenue towards the acquisition of property. We would deal with that.

- Pensions, to amend the Old Age Pensions Act to increase the monthly pension as agreed in the budget.
- Disability, to amend the Public Assistance Act to increase the disability assistance grant.

We propose also to amend the Income Tax Act to do a number of things: to increase the basic personal allowance to give relief to low income taxpayers; to include in the revenue receipts two categories of persons who are excluded from the payment of taxes, one is in relation to private institutions and the other to the employees of charities; to exempt from the business levy, the gross sales or receipts of an approved small company. This was a measure intended to mitigate the impact on small businesses of the recent increase in the national hourly minimum wage from \$8 to \$9.

We also propose to amend the Corporation Tax Act, to make it clear that corporate citizens could make one-year Deeds of Covenant to benefit charitable sporting organizations and to deal with some technical issues which I will explain a little later.

We also propose to amend the Second Schedule of the Act, so that members of the public travelling abroad would be allowed an exemption for customs duty in respect of goods accompanying them not exceeding \$3,000 in value.

We propose as well to amend the Securities Industry Act to provide two additional customers: The Pension Act to include for pension purposes certain office holders in the education system, to design those allowances paid to be used for the purposes of calculating their pension benefits.

We propose to transfer the assets and liabilities of the Dollar for Dollar Fund into the Government's GATE programme.

We propose also to correct an error in the order made under section 9(2) of the Privileges and Immunities Act, Chap. 17:01 and published in the *Gazette* of May 2005, and of course, we propose to restructure the petroleum taxes regime in nine key areas:

- (i) the restructuring of the computation and assessment on crude oil;
- (ii) the definition of the accounting year and establishment of the quarterly basis formula;

- (iii) the inclusion specifically—this is something that has been there but did not have the force of law—of the production-sharing contracts in this regime;
- (iv) the determination of the producer of condensate for the purposes of applying the SPT;
- (v) the rationalization of the utilization of first year and annual allowances;
- (vi) to define the periodic computation of the SPT, PPT and unemployment levy in order to correct the anomalies created by the wording of section 7 of the Petroleum Taxes Act and section 9 of the Unemployment Levy Act;
- (vii) to deal with the issue of deferral of capital allowance;
- (viii) to define incurrence of the decommissioning of abandoning costs, the redefinition of the management charges and the effective date of these measures and the element of retroactivity.

Mr. Vice-President, these are the main objectives of this particular piece of legislation that is before us. I would, therefore, now consider them in greater detail on a clause by clause basis.

With respect to clause 1 of the Bill, it really cites the Short Title and is self-explanatory.

With respect to clause 2, that was intended to amend the National Lotteries Control Board Act, simply to provide to that institution, under the law, the ability to use the Consolidated Fund for the purposes of acquiring property; something that they do not now have. In looking at what was done previously, we noted that they did this without legislative authority and this was intended simply to deal with that, but we will treat with that on another occasion.

At clauses 3 and 4 of the Bill, these clauses would amend the Old Age Pensions Act by increasing the monthly and basic old age pension to \$1,150 and \$1,050 respectively. Prior to October 08, 2004 when the budget was presented, the Old Age Pension Board paid \$1,000 to persons 65 years of age, whose monthly income did not exceed \$100. Persons with an income of \$101 to \$1,000 per month, they received an old age pension of \$900. The intention in this particular clause is simply to do the following:



- a person whose income exceeds \$100 per month, but does not exceed \$1,000 per month, will now be paid a basic pension. No old age pension will be paid where the income of a person exceeds \$1,000. The basic pension has been increased to \$1,050; and
- a person whose income is less than \$100 per month will now be paid a monthly pension of \$1,150.

There is a provision, as well, in order to protect the Old Age Pension Board because it is necessary to include a validation provision covering payments of the increased monthly and basic pensions which were authorized by the board with effect from October 01, 2004.

In relation to clauses 5 and 6 of the Bill, which deal with amendments to the Public Assistance Act, you would recall that the Minister of Finance in his 2003 budget presentation indicated that the disability assistance would be upgraded with effect from fiscal year 2004. As is evident from the amendments to the Public Assistance Act, steps have been taken to upgrade this benefit in accordance with the commitment of the Government.

The disability assistance grant has in fact been increased from \$650 to \$800 with effect from October 01, 2004. Like the old age pension provision, we are including a validation provision to protect the board in the payment of the grant from October 01, 2004. This validation provision is to be found at clause 6 of the Bill.

Clause 7 of the Bill deals with the proposed amendments to the Income Tax Act.

Clause 7(1)(a) of the Bill seeks to provide, with effect from January 01, 2005, relief to low-income resident taxpayers who have not attained the age of 65 years, by increasing their basic personal allowance in ascertaining their chargeable income for tax purposes.

Section 18(1) of the Income Tax Act will be amended as follows:

- for individuals with a gross annual income not exceeding \$30,000, the basic personal allowance will be increased by \$5,000. It is now \$25,000 and it will go to \$30,000.

Of course, this is in respect of gross and not net income.

- for individuals with a gross annual income exceeding \$30,000 but not exceeding \$35,000, the basic personal allowance of \$25,000 will be increased by an additional \$5,000 less one dollar for every dollar of

gross income above \$30,000; and

- where individuals are in receipt of a gross annual income in excess of \$35,000, the basic personal allowance will remain at \$25,000.

This measure was intended to put in the hands of those individuals at the low end of the income scale an additional sum of money, at a time when in looking at the food index, the Government believed that it must do something with this individual. This individual will now receive more net income as a consequence of the Government giving up that particular revenue.

**11.55 a.m.**

Mr. Vice-President, the other tax matters dealt with by clause 7 of the Bill are in relation to sections 136 and 139 of the Income Tax Act.

Sections 133 to 141 of the Income Tax Act provide a scheme for the taxation of benefits in kind received by employees and directors of companies.

However, section 136(5) also provides that these provisions should not apply to persons employed by schools or other educational institutions.

In looking at this particular matter the Board of Inland Revenue had advised, and we have agreed, that based on the way this industry is operating today, there is no justification to continue with this particular amendment.

In fact, according to the information that is available to us, many of our private educational institutions are in fact established for profit and whilst one must be happy for the employees who received handsome remuneration packages, there is really no good reason why the benefits in kind received by these employees should be granted special treatment. In these circumstances, section 136(5) of the Income Tax Act, which allows for the tax exemption of these benefits, will now be removed with effect from the commencement of this year of income, that is from January 01, 2005. This measure is stated at clause 7(1)(b) of the Bill.

Mr. Vice-President, further, the provisions in the Income Tax Act which provide for the taxation of benefits in kind restrict this tax treatment to benefits paid by companies carrying on a trade or engaged in investment. These provisions do not apply to persons employed by charities or municipalities and, as such, benefits in kind paid to the employees of charities and municipalities escape the taxation net. The Government sees no justification for continuing this favoured tax treatment and, therefore, this particular amendment can be found at clause 7(1)(c).

Clause 8(a) will exempt from the business levy the gross sales or receipts of an approved small company referred to under section 16A of the Corporation Tax Act. This exemption is intended to mitigate the impact on small businesses of the recent increase in the national hourly minimum wage from \$8 to \$9.

In order to qualify as an approved small business under section 16A of the Corporation Tax Act, the Minister of Finance, after consultation with the Business Development Company Limited, would issue a certificate of approval to a small company which, among other things:

- is locally owned and controlled;
- has machinery, equipment and working capital the value of which does not exceed \$1.5 million;
- has potential for creating permanent jobs;
- has at least five permanent employees; and
- makes optimum use of locally-produced raw materials.

At clause 8(b), (c) and (d) of the Bill, the Corporation Tax Act will also be amended to make it clear that our corporate citizens can make one-year deeds of covenant to benefit charitable and sporting organizations approved by the President.

The provisions of the corporation tax which will be affected by this proposal are subsections (3) and (5) of section 7 and the table under section 19. A new section 100 will be inserted.

Mr. Vice-President, in order to understand the proposal at clause 8(b), (c) and (d) of the Bill, it will be necessary to digress a bit to 1997 when certain amendments were made in the Finance Act of that year. Now, deductions for payments made by individuals under a deed of covenant were abolished in 1997 because taxpayers abused the use of covenants. In order to remove this deduction from the legislation, section 21 of the Income Tax Act was deleted. The repealed section 21 provided for payments under one-year deeds of covenant to be claimed as a deduction in ascertaining the chargeable income of the donor.

Section 21 also applied to companies through section 19 of the Corporation Tax Act. Mr. Vice-President, you will note that under section 19 of the Corporation Tax Act, certain provisions of the Income Tax Act are incorporated into the Corporation Tax Act without the necessary modifications. However, the existing table under section 19 of the Corporation Tax Act continues to make

reference to the repealed section 21 of the Income Tax Act as a provision which applies to companies. In other words, the Act now refers to something that has been repealed.

It was intended that companies should continue to claim a tax benefit where one-year covenants were made. However, through inadvertence, the Corporation Tax Act was not amended to include a provision similar to the former section 21. Clause 8(b), (c) and (d) now seeks to include provisions similar to the former section 21 of the Income Tax Act.

**Sen. Seetahal:** I am not sure if I am following you. Mr. Vice-President, through you, what the Minister said was that they repealed the law allowing for the claim under deeds of covenant which I understood, and then I understood that you did not tidy up the other laws.

**Sen. The Hon. C. Enill:** Yes.

**Sen. Seetahal:** Is it that you were meant to retain the provision allowing companies to claim deeds of covenant or you meant to bring it back or what? I am not sure that is clear.

**Sen. The Hon. C. Enill:** It was intended that the companies should continue to claim the benefit, but that the individuals should not. There was no provision made to legally do that. The situation is that the Board of Inland Revenue continued to provide it without legal authority and, therefore, what this is seeking to do is to deal with that matter.

In fact, the effect of deleting section 21 from the Income Tax Act meant that since 1997, companies were, technically speaking, only entitled to deductions for deeds of covenant lasting for several years. This was not intended and in fact the Board of Inland Revenue has continued since 1997 to approve one-year deeds of covenant, although without legislative authority to do so.

Mr. Vice-President, deeds of covenant usually stipulate the amount to be donated to charity during a year of income. Although there may be an obligation to pay an amount in a year of income, the company may actually pay less than the amount of the covenanted donation. In such a case, the company will only be entitled to the actual expenditure incurred.

In addition, the company will not be able to claim the covenanted donation as a deduction in ascertaining their chargeable profits for a year if the deed under which the covenanted donation was made was not properly stamped by the Stamp Duty Office. This is to ensure that the State collects the stamp duties payable on

these transactions as soon as possible. This provision is similar to claims made by homeowners who are denied their mortgage deductions, unless the relevant property taxes payable under the Lands and Buildings Taxes Act or the Municipal Corporations Act are paid.

In order to give effect to Government's intention, it is necessary to amend the Corporation Tax Act by the inclusion of a provision similar to the former section 21, but with one notable variation. Mr. Vice-President, the variation is this: Tax incentives were introduced recently to benefit companies wishing to sponsor sporting activities. Covenanted donations were not contemplated here. A company which contributes financially towards the promotion of these sporting events, can, under section 10I of the Corporation Tax Act, claim an allowance equal to 150 per cent of the actual expenditure, up to a maximum allowance of \$1 million. In order to be consistent with the allowance claimed under section 10I of the Corporation Tax Act, and more so to preempt the use of creative tax strategies, deductions in respect of covenanted donations made by companies to sporting bodies approved by the President will now be limited to \$1 million.

Other covenanted donations to charitable institutions, apart from the limitation of 15 per cent of the total income of the company, will not have this additional monetary restriction of \$1 million, unless of course the payments also qualify for a deduction under sections 10G to 10K of the Corporation Tax Act. Sections 10G to 10K provide for special tax allowances where companies make grants for the following: art and culture; scholarship; sporting activities and sportsmen; and local audio, visual or video production.

Further, in order to protect the Board of Inland Revenue, it will be necessary to validate the actions of the board regarding its approval of covenanted donations made by companies prior to the coming into operation of the Finance Act 2005. This validation is to be found at clause 9 of the Bill.

Mr. Vice-President, I would now deal with Parts X, XII, XIII, XIV, XV and XVI of the Bill, and then I will return to the remaining parts, because those are the parts that deal with matters relating to the taxation of petroleum companies. I would go into those matters in a little more detail.

Part X or clause 13 of the Bill deals with amendments to the Customs Act. The Second Schedule to the Customs Act will be amended at item 6(a) so that members of the travelling public would legally be allowed, with effect from October 08, 2004, the exemption from customs duty payable in respect of goods not exceeding \$3,000 in value.

Mr. Vice-President, you will recall that the Prime Minister had announced in his 2004/2005 budget presentation that the increase in the baggage allowance would take effect from October 08, 2004 when the budget was read. The goods covered by this exemption are goods which were acquired abroad or in local in-bond shops for personal or household use or as souvenirs or gifts.

Further, a validation clause has been inserted at clause 13(2) to validate the actions of officers who would have given effect to the spirit of the measure announced by the Prime Minister on October 08, 2004.

Part XII or clause 15 of the Bill seeks to amend section 9 of the Securities Industry Act, 1995 so as to increase the complement of commissioners on the Trinidad and Tobago Securities and Exchange Commission (SEC) from five to seven commissioners. In accordance with the existing law, the additional commissioners will be expected to have wide experience and ability in legal, financial, business or administrative matters.

Mr. Vice-President, as you know, the mutual funds industry in this country, which is a subset of the financial services sector, has been growing at such a rate that the SEC and its policy development function has taken on a different type of authority because the SEC now has a role to play in regulating that part of the development of the financial sector. In fact, the policy development function of the SEC is quite demanding, not only in terms of the time required for attendance at meetings but also with respect to the scope of the matters that must be considered in the context of an emerging securities market that is evolving at a rapid pace.

In addition to the policy development role that the commission discharges in accordance with its capital market development mandate, the commission is required to hold hearings on matters such as legislative, enforcement and market initiatives. As such, increased membership on the commission will allow the commission to attend to matters more expeditiously.

If I understand some information that I have received from them, there are some 70 or 80 matters that they have to deal with and each matter requires a tribunal and a commission. It is really the commissions that have to meet on these matters. So the workload of the commission is extremely onerous. The law, as it is now formulated, requires the commissioners to be involved in that process.

Mr. Vice-President, clause 16 of the Bill makes provision for the inclusion for pension purposes and certain allowances paid on or after December 06, 2000 to the holders of the offices of School Supervisor I, School Supervisor II, School

Supervisor III, Director of School Supervision and the Chief Education Officer pending the transfer of these offices to the teaching service.

In December 2000, the Government had agreed to the payment of interim allowances to school supervisors, the Director of School Supervision and the Chief Education Officer pending the transfer of the said officers to the teaching service. These officers are the reporting officers for school principals and teachers and perform a vital role in the management of our education system. The intention of the Government is that these interim allowances should be treated as emoluments to be taken into consideration in the calculation of the pension of these school supervisors.

Unfortunately, the pension legislation is not very clear and there have been varying opinions as to whether these interim allowances should be included in the computation for pension purposes, notwithstanding the Government's intention. As the law currently stands, allowances such as personal allowance, inducement allowance and house allowance are specifically included as pensionable emoluments.

However, the lawyers are not settled on the interpretation of whether the reference in the Pensions Act to "fees paid out of the Treasury by way of salary" includes these interim allowances. As a result, the proper calculation of the pension of these school supervisors in accordance with Government's clear intentions has been held in abeyance since 2000. Mr. Vice-President, the amendment therefore seeks to clarify this particular matter and to ensure that the officers who are affected can in fact get their due allowances for pension purposes.

Part XIV or clause 17 of the Bill is simply intended to correct a typing error in the last Finance Act in 2004, which omitted to include the word "35" in order to identify the section in the Value Added Tax Act to be amended.

You would recall that section 11(a) of the Finance Act, 2004 sought to amend the Value Added Tax Act, 1989 so as to permit the Board of Inland Revenue to apply a person's Vat refund to any other type of tax liability that is either income or corporation taxes. However, there was a typographical error in the amendment contained in the Finance Act, 2004 in that section 35 of the Value Added Tax Act was not expressly stated. This measure is intended to correct that.

Part XV or clause 18 of the Bill deals with the transfer of the assets and liabilities of the Dollar for Dollar Fund into the Government Assistance for Tuition Expenses (GATE) Fund.

Mr. Vice-President, GATE represents a new funding mechanism for students at tertiary institutions and replaces the Dollar for Dollar Education Plan. Under the GATE programme, half of the cost of tuition payable by any student enrolled in tertiary programmes at public as well as accredited private tertiary institutions will be met by the Government.

Further, private sector and other institutions wishing to participate in the plan will be required to register with the National Accreditation Agency which was established to ensure that citizens have access to the highest quality of tertiary education at institutions in Trinidad and Tobago.

The significant difference between the GATE programme and the Dollar for Dollar Education Plan lies in the application of a Means Test under GATE to assess students who are unable to pay the remaining tuition. Where it is determined from the Means Test that certain students cannot afford the remaining tuition, the Government will pay the entire tuition fees for such students.

Given Government's decision to replace the Dollar for Dollar Plan with the GATE programme, it is necessary to terminate the Dollar for Dollar Fund and to establish the GATE Fund in accordance with section 43 of the Exchequer and Audit Act. The GATE Fund was in fact established in December 2004.

Mr. Vice-President, there are currently ongoing obligations and liabilities under the Dollar for Dollar Fund that this Government will meet. The Dollar for Dollar Fund cannot therefore be terminated until these liabilities are fully extinguished or alternatively are transferred to the GATE Fund.

Clause 18 seeks to transfer these liabilities to the GATE Fund with effect from the coming into operation of the Bill that is before us today.

Part XVI or clause 19 of the Bill deals with the commencement date for the extension of certain tax and other benefits to the Caribbean Court of Justice (CCJ), the Regional Judicial and Legal Services Commission and the Caribbean Court of Justice Trust Fund.

Only very recently, this House approved an Order, which was made under section 9(2) of the Privileges and Immunities Act, Chap. 17:01 and published in the *Gazette* in May 2005. Under this Order, certain privileges and immunities were extended to the CCJ, judges of the CCJ, members of the Regional Judicial and Legal Services Commission, the Caribbean Court of Justice Trust Fund as well as officers and servants of these institutions. These privileges and immunities are in keeping with the terms of the agreement establishing these institutions to which this country is a signatory.



In order to protect their independence and impartiality, judges and officers of the CCJ and members of the commission and trustees of the fund shall enjoy the following privileges and immunities:

- immunity from suit and legal process as is accorded to an envoy of a foreign sovereign power;
- inviolability of residence as is accorded to an envoy; and
- exemption from taxes as is accorded to an envoy.

Whereas the Order which was recently approved by Parliament and published in the *Gazette* clearly provides for the effective date from certain privileges and immunities to the CCJ and the trust fund to be extended, the effective date for the extension of similar privileges and immunities to the judges of the CCJ were not expressly stated in the Order.

Having only been published in May 2005, this would mean that the benefits under the Order with respect to the judges of the CCJ will take effect from the date of publication in May of this year. The effect of this would be that the judges could technically be required to pay taxes on their incomes received prior to the publication of the Order. This was clearly not the intention.

In keeping with the intention to protect the independence and impartiality of judges of the CCJ, all remuneration, whenever received by these judges, should be exempt from taxes and the legislation under which the Order was made, allows for such Order to be made retrospectively. Mr. Vice-President, you will note that this exemption is not exclusive to judges of the CCJ. The remuneration and allowances paid to judges of our local courts are also exempt from taxes.

**Sen. Seetahal:** Mr. Vice-President, through you, with respect to clauses 3, 4 and 5, do they pertain only to taxation or are there other privileges that ought to be backdated such as freedom from suit and things like that?

**Sen. The Hon. C. Enill:** Yes. The effect of clauses 3, 4, and 5 is to deem that the Order came into operation on August 22, 2003.

With a view to correcting the error contained in the Order, clause 19 of the Bill seeks to standardize the effective dates for the application of privileges and immunities to the date on which the CCJ Trust Fund and the Regional Judicial and Legal Services Commission were established, that is on August 22, 2003. The commencement provision in the Order would therefore deem clauses 3, 4, and 5 of the Order to come into operation on October 22, 2003.

Mr. Vice-President, I will now discuss the petroleum measures which are to be found at Parts VII, VIII, IX and XI of the Bill. Mr. Vice-President, I am pleased to announce that the Government has agreed on the broad elements of a revised petroleum taxation regime and intends to bring amending legislation to this Parliament in the very near future after there has been dialogue with stakeholders in the industry.

Let me say at the onset that on coming into government, one of the things that we noticed was that the revenue received by government in fact reduced when you had very high prices for oil. I had the challenge of trying to explain to this country how is it as prices went up the State received less revenue. In looking at that exercise we found a number of things. We found that the legislation relative to the petroleum sector never contemplated gas as a part of our revenue stream and, secondly, the way that the law was set out, companies were maximizing the use of what we called "certain anomalies" as they related to that particular Petroleum Act.

What the Government sought to do was to set up a group of individuals to do two things: one to make sure that whatever we did, at the end of it all, Trinidad and Tobago maintained its international competitiveness in the industry and, secondly, that we receive our fair share of this particular resource. It is for that reason, therefore, that in bringing this amendment today, we are really talking about supplemental petroleum taxes at this time and not PPT or unemployment levy. You see, the supplemental petroleum tax was intended simply to deal with price issues.

Mr. Vice-President, if we look at what is happening today in the context of the petroleum sector, clearly we are seeing, based on the demand and supply issues within the world, that the price of this product will continue to go up. Some individuals say \$60, \$70, \$80 or \$90 per barrel. I have even heard \$100 per barrel. There are two sides to that: the upside and the downside. Sometimes when we talk about the upside we really do not deal with the downside, but there is a downside to it.

Mr. Vice-President, what we are seeking to do in these amendments is to correct what we considered to be anomalies. The reason that we say that they are anomalies was at the time that these amendments were put in place, we were in a low oil price environment and, therefore, one had to put significant allowances in place so that investors would want to come here and do the things that we have asked them to do.

This exercise took a little longer than anticipated because we wanted to get it right. In the first instance, we set up a team. We had a group of consultants and when the consultants finished their reports we discussed them with the producers, and we found that we were not getting anywhere. We started over the exercise and we put a delegated group together. We found an individual who did this for governments; having absolutely no contact with the large commercial entities. We did that exercise—we dialogued with the stakeholders—and they raised a number of issues. We took those issues into account and we went back to this particular consultant. In fact, since he does not come here, we had to find him wherever he was in the world. We had to meet him in Seattle, Washington at one point in time and at another point in time we had to meet him in London.

Basically, the way the exercise works is as follows: We have a set of amendments that we want to propose. We basically met with the producers and we talked with them and got their concerns. We took those concerns back to the Professor, as he is called, and he looked at the international standards and gave us advice on it, and if it is in our interest we either take it or we find a way to deal with it.

Mr. Vice-President, I say this because whatever we do today—the amendments that we have proposed—we have taken a long time to get here. We believe that these amendments, which are really the first part of the amendments, reflect in some way the tax on the supplemental petroleum taxes element of the taxation system that will provide Trinidad and Tobago with the best return while, at the same time, not compromising the competitiveness of the industry, or in any way interfering with the economics of many of the producers. Whatever we have proposed here has in fact been accepted by most of the players.

Mr. Vice-President, I am therefore pleased to announce that we have agreed on broad elements of the petroleum taxation regime and that we are committed to establishing a revised energy tax regime. The pieces on gas will come a little later. Where we are on the gas taxation is that we have a set of amendments; we have a set of issues; and Cabinet has recently authorized the team to start talking to the producers.

Mr. Vice-President, you will recall that in the budget statement of October 08, 2004, the Government committed itself to establishing a revised energy tax regime. This commitment was made in the context that more than 10 years had elapsed since the last review of our energy tax regime in 1992.

Since that time, the Trinidad and Tobago economy has undergone a structural and fundamental change. The gas and gas-based sub-sectors have assumed a dominant position within the energy sector and within the international

community.

Mr. Vice-President, for example in 1975, our gas production was 150 million cubic feet per day, whereas by the end of 2004 it was almost 2,500 million cubic feet per day. Similarly, in terms of revenues, in 1975 it was 10 per cent of the total petroleum income, and by 2002 it was 61 per cent and, therefore, what that said was that we had this particular commodity and we were not really capturing some of the revenues that we should have received from this particular commodity. Mr. Vice-President, today we are not dealing with gas per se, but we are simply dealing with oil.

The expanding activity in the gas and gas-based sub-sector was reflected in the re-based national account series which used the year 2000 as the base year instead of 1985. In looking at this re-basing and capturing the importance of the gas and gas-based sub-sectors during the last decade, one cannot help but come to the conclusion that the economy was becoming increasingly diversified and transformed, certainly within the energy sector.

It therefore came as no surprise to this Government that in 2003, the real economic growth rate was put at 13.2 per cent, almost double the rate of the previous year. In 2004, the economic rate of growth was 6.2 per cent and on the basis of current evidence the rate of growth is on a similar path.

Mr. Vice-President, the Government's decision to establish separate taxation regimes for oil and gas was therefore timely and appropriate. The Government appointed a technical team under the chairmanship of Prof. Kenneth Julien with technocrats from the Ministry of Energy and Energy Industries and the Ministry of Finance. The mandate of the team was to review several issues relating to petroleum matters, including separate tax regimes for crude oil and natural gas.

As an initial step, the technical team presented an interim report on certain anomalies and shortcomings within the existing petroleum taxation legislation. The team advised that these anomalies and shortcomings could be addressed immediately in order to ensure that the petroleum legislation was comprehensive, easily administered, predictable and transparent.

Mr. Vice-President, in designing these measures for the new petroleum legislation, the technical team had wide-ranging discussions with the relevant stakeholders. The technical team agreed that the interactive process with the stakeholders had been largely fruitful and had raised a number of technical issues which required expert advice.

To that end, the technical team sought the advice of a technical consultant, Prof. Pedro Van Meurs, who has considerable knowledge and experience in designing oil and gas fiscal systems in the international arena.

It is in this context that I am pleased to take you through the following measures which represent only phase I of the plan to re-engineer the taxation structure for petroleum companies operating in Trinidad and Tobago. These measures seek to correct certain anomalies and shortcomings in the existing law so as to ensure that our petroleum legislation is less ambiguous, more transparent and easier to administer.

Mr. Vice-President, I want to repeat that because I think there is some misunderstanding of what we are attempting to do. These measures seek to correct certain anomalies and shortcomings in the existing law so as to ensure that our petroleum legislation is less ambiguous, more transparent and easier to administer.

The centrepiece of the legislative framework governing the petroleum sector is the Petroleum Taxes Act, which imposes two different taxes: the petroleum profits tax or the PPT and the supplemental petroleum tax or the SPT. Other pieces of legislation, in particular the Unemployment Levy Act, the Fiscal Incentives Act, the Income Tax Act and the Corporation Tax Act, all have consequences for the taxation of this very important sector.

This Government has agreed to restructure the petroleum taxation regime in nine key areas:

Firstly, the computation and assessment of the supplemental petroleum tax (SPT) on crude oil will be restructured. In order to correct the anomaly resulting from gas expenditure being included in the allowances claimed against crude oil income for SPT purposes and the problems associated with the granting of the allowance, the SPT will be restructured in a manner which would eliminate these problems and also generate additional revenue.

In particular, it is expected that the Government will realize a greater share in the windfall than presently obtains and will receive SPT at prices above US \$15 per barrel for marine oil and US \$16.50 per barrel for land oil. On the other hand, where the price of crude oil drops below US \$15 and under per barrel, there will be no liability to pay SPT.

It is important to note that a company's expenditure profile for both crude oil and gas alike will no longer affect the SPT take. The restructuring will entail the following:

1. the SPT will now be calculated on gross crude oil income less royalty and overriding royalty; and
2. the restructuring will also involve a removal of all other allowances and discounts from both crude oil and gas expenditure for the purposes of calculating the SPT.

Mr. Vice-President, SPT is a tax on crude oil and the administrative difficulty encountered in allocating expenditure to crude oil as against natural gas can be overcome simply by removing all allowances and discounts, with the exception of royalty deductions.

In particular, the following allowances will no longer be granted with effect from January 01, 2004:

Geological and geophysical	50 per cent;
Exploration	100 per cent;
Investment	40 per cent;
Heavy oil	100 per cent;
Enhanced recovery	100 per cent;
Field discount	20 per cent; and
Production discount	20 per cent.

The removal of the allowances and discounts is provided for at clause 11(f) of the Bill by the repeal of the provisions in the Petroleum Taxes Act relating to allowances, that is, section 22A, geological and geophysical allowances; section 25, exploration allowance; section 25B, heavy oil allowance; section 26, investment allowance; section 26A, enhanced recovery allowance; section 26B, recapture of allowances; section 26C, allowances to be claimed in the same financial year; section 26D, deductibility of allowances; sections 4 and 5 of the Third Schedule, field discount and production discounts respectively.

The threshold for marine operations will be increased from US \$13 to US \$15 per barrel. The threshold for land operations with licences issued before January 01, 1988 will be increased from US \$14 to US \$16.50, and those issued after January 01, 1988 from its current US \$14 to a new US \$18 per barrel.

#### **12.40 p.m.**

SPT rates will be reduced on the basis of the following framework for both land and marine operations:

- (a) Where the price of crude oil falls below US \$21 per barrel, the bands will increase from US \$1 to US \$1.50 and the rates will be reduced by 5, 4, 3 and 2 percentage points; and
- (b) Where prices are above US \$21 per barrel, the bands will be retained and the rates reduced by 3 percentage points and will be applicable to both land and marine operations.

The new structure will ensure that when oil prices are high, the Government gets a proper share of the windfall profits and the companies will benefit from a built-in incentive when the prices are low. That is the effect of that particular measure. The existing rates contained in Part B of the Third Schedule to the Petroleum Taxes Act, will be replaced by a new SPT rate structure referred to as clause 11(l) of the Bill.

The revised structure widens the price bands where prices are below US \$21 per barrel and raises the tax threshold from US \$13 per barrel to US \$15 per barrel for marine operations and from US \$14 per barrel to US \$16.50 per barrel for land operations.

Mr. Vice-President, clause 11(l) of the Bill seeks to alter the supplemental petroleum tax regime by replacing Part B of the Third Schedule. It is intended that the new rate structure should take effect from January 01, 2004 along with all the other provisions which affect the petroleum industry. For the avoidance of doubt, there is an amendment that states:

“Notwithstanding the provisions of any other written law.”

In situations where legislation is to have retroactive effect, it is imperative that there be no ambiguity inherent in the particular provisions or in the Act as a whole. That is being proposed as well.

Mr. Vice-President, the second key area in the restructuring of the petroleum taxation regime relates to the computation and assessment of the supplemental petroleum taxes on a quarterly basis.

**Sen. Seetahal:** Through you, Mr. Vice-President. I have been looking at the table and it appears to me that the taxes are lower. Is the Minister saying—for somebody who is not an accountant, I want to get it clear—that because there is a removal of the allowances, the taxes—for instance, if you look at 16.51 to 18.00, it is now 11 instead of 15, so it is a lower percentage. So, if we have to get more revenue, is he saying then, that because you remove allowances, that 11 per cent, instead of 15 per cent, will bring you more money?

**Sen. The Hon. C. Enill:** Yes.

**Sen. Seetahal:** Then it must have been a lot of allowances that you were giving away before. I was now trying to get that clear.

**Sen. The Hon. C. Enill:** Yes. It is not only allowances, it is— The answer is yes, yes, yes, to all of that. Mr. Vice-President, how much time do I have?

**Mr. Vice-President:** Two minutes.

**Sen. The Hon. C. Enill:** Mr. Vice-President, all the amendments that I have proposed—and I can deal with some of them at committee stage as well—are intended—

**Sen. Mark:** We only have two minutes, but we would have no difficulty if the Minister would like us to suspend the Standing Orders, because clearly, I think he is far away from concluding. If people are to make sense out of what he is saying, we need to have a broad picture. So, I have no difficulty, with the leave of the hon. Leader of Government Business and your good self, along with the Independent Senators that we suspend the Standing Orders to facilitate the Minister to complete his presentation. I have no difficulty with that.

**Sen. The Hon. C. Enill:** If that is the wish.

**Hon. Senators:** How much more time do you want?

**Sen. The Hon. C. Enill:** An extension of maybe 15 minutes.

**Mr. Vice-President:** Is it the will of the Senate, therefore, that the Minister complete his presentation?

*Assent indicated.*

**Mr. Vice-President:** Hon. Minister, you may continue. We shall take the lunch break right afterwards. [*Crosstalk*]

**Sen. The Hon. C. Enill:** Mr. Vice-President, I am humbled because— Let me thank the hon. Senators for allowing the Government the opportunity to continue its presentation.

Mr. Vice-President, the second key area in the restructuring of the petroleum taxes regime relates to the computation and assessment of the supplemental petroleum tax on a quarterly basis. This is intended to correct the problems associated with the computation of the SPT, where a company's accounting year was different from the financial year. Under the existing law, the financial year is defined as the period of 12 months commencing on January 01 each year.



However, because a petroleum company may have an approved accounting terminal date which does not coincide with the financial year, this particular issue poses some administrative difficulties for the Board of Inland Revenue. Let me explain.

Where for instance a company's accounting year spans two financial years, this would mean that there will be in effect two different rates of SPT. Why? This is because the SPT due for a particular quarter is calculated using the weighted average annual crude oil price, which is arrived at based on sales of a financial year, that is a calendar year commencing on January 01. For instance, a company whose accounting year commences on April 01, will calculate SPT using figures from April to December in one financial year and apply a separate rate of SPT based on the sales figures for January to March in the other financial year.

In addition, because the liability to SPT is calculated using the weighted average annual crude oil price, which I have already stated is based on sales for the entire financial year, a company is able to defer the payment of taxes to the latter part of the year. This is because, in arriving at the company's SPT liability for the first quarter, that is, from January to March, the company will use whatever actual sales figures are available during that quarter.

However, in calculating the weighted average annual crude oil price, the company will use estimates or planning figures for the remaining months of the year. There will therefore be a mix of actual sales and estimates in arriving at the weighted average annual crude oil price. Because estimates—and you know it—or planning figures are invariably lower than actual sales, in effect, a company is able to defer the bulk of its SPT liability to the end of the financial year when the actual figures would be known.

Mr. Vice-President, the amendment which is proposed seeks to solve the problem by ensuring that the SPT is computed and assessed on current income on a quarterly basis. The quarterly calculation will be based on a weighted average crude oil price, which will use actual income derived from disposals made within a particular quarter and not from sales for an entire year as the calculation of the weighted average annual crude oil price is contemplated.

In order to ensure that actual figures are used and to eliminate the need for estimations, companies will be granted a period of 15 days after the end of a quarter to report their income. This will resolve the twin problems of using different rates of SPT and deferring the payment of SPT. The weighted average crude oil price will be calculated on a quarterly basis, thereby removing the difficulties arising from the application of the company's accounting period for

SPT purposes and the use of the estimates or planning figures in the calculation of the weighted average annual crude oil price.

Since the restructured SPT will now be akin to a severance tax, quite frankly, with royalty only, the weighted average price of crude will be calculated on a quarterly basis and the SPT will therefore be collected quarterly on the basis of actual data, with collection on the 15<sup>th</sup> day of the month following the quarter. The quarters are expressly stated by the periods ending March 31, June 30, September 30 and December 31.

Thirdly, production-sharing contracts are to be subject to SPT. This will address the anomaly whereby production-sharing contracts which are required by law to pay the SPT are excluded from the provision which determines the applicable SPT rate to be used in the calculation of the SPT. The Third Schedule, Part A, section 2 of the Petroleum Taxes Act will be amended to include the words "or contract unless the PSC specifically exempts the contractor from this obligation". And, Mr. Vice-President, just to ensure that nobody believes that we are doing something that is not currently the practice, this is currently the practice. The problem here is that there is no provision for it in the law, and what we are seeking to do here, is to fix that.

Fourthly, producer of condensate to be liable for SPT. This will correct the anomaly whereby condensate from a natural gas pipeline generally is subject to the SPT, but some of the condensate nevertheless escapes the charge since it is recovered after the gas is sold.

The law will be amended to state that the initial producer or licensee of the natural gas from which condensate commonly called "drip" or "pipeline condensate" is recovered, will be deemed to have produced the condensate so recovered from a gas pipeline and will be responsible for the payment of the SPT on that condensate. The volume of condensate so recovered will be determined through a technical certification procedure from samples taken at the well-head, bearing in mind that the modernization of the gas pipeline network would allow for the distribution of wet gas from several sources.

Fifthly, rationalization of the utilization of first year and annual allowances. This will correct the anomalous situation whereby companies can claim three allowances in the first year and may not include the first year allowance in the computation of the residue. Parts II and III of the Income Tax (In Aid of Industry) Act will be amended at clause 14 of the Bill as follows:

1. to remove first year allowances from both Parts II and III;
2. to allow annual allowances for Part II from year one on a straight line basis; and
3. to allow annual allowances for Part III from year two or from the year of commercial production, whichever is earlier, on a reducing balance.

Sixthly, the periodic computation of SPT, petroleum profit taxes (PPT) and the unemployment levy. This will correct the anomalies created by the wording of section 7 of the Petroleum Taxes Act and section 9 of the Unemployment Levy Act whereby petroleum companies are required to compute and pay taxes on a current year basis but the legislation does not adequately express this.

Section 7 of the Petroleum Taxes Act will be amended to provide for the SPT to be computed and paid on a quarterly basis while PPT, though computed annually, would be paid quarterly on a current year basis. This is to be found at clause 11(a) of the Bill.

Section 9 of the Unemployment Levy Act will be amended to provide for the unemployment levy to be computed on the taxable income chargeable to PPT and paid on a quarterly basis. This amendment is to be found at clause 10 of the Bill.

Seventhly, non-deferral of capital allowances. In order to correct the anomaly associated with the non-deferral of capital allowances, that is to say, a company can have all these allowances and they still basically defer capital allowances, which was not the intent. The Income Tax (In Aid of Industry) Act as well as the Fiscal Incentives Act will be amended to provide for companies to claim allowances only in the year in which the allowances become due. The Income Tax (In Aid of Industry) Act will therefore be amended to state the following:

1. the annual allowance under section 17 Part II will be granted from the year in which the expenditure was incurred;
2. the annual allowance under section 24 Part III will be granted from the year after the expenditure was incurred;
3. failure to claim the allowances in the above manner will result in forfeiture of the claim. Furthermore, the annual allowances for any given year would be computed and allowed as if the company had made the claims for annual allowances in the relevant years;
4. the amendment will be applicable to companies governed under the Petroleum Taxes Act and the Corporation Taxes Act.

Eighthly, incurring of decommissioning or abandonment costs. Such costs will only be allowed when they have occurred.

Ninthly, redefinition of management charges. The definition of management charges will be amended to include head office charges, foreign research and development fees and other shared costs charged by head office. There was a view that this would cause investments to move away from Trinidad and Tobago. That is not the intent. The intent is that once the work was conducted here, he would actually get the allowances.

The cap on the allowance for management charges will be increased from 1 per cent to 2 per cent of all expenditure, exclusive of all management charges, depreciation/capital allowances and other special allowances granted by the Income Tax Act or Petroleum Taxes Act.

Mr. Vice-President, coming out of this particular exercise, the Government believes that a review of the Petroleum Taxes Act should take place on an ongoing basis so that we can understand what is happening, and we would be putting in place the necessary human and financial resources to understand what is happening in that industry, because based on what we are seeing, the industry is moving at a rate.

The measure contained at clause 11(d) of the Bill is a tidying up measure and will amend the Petroleum Taxes Act by granting to companies in the petroleum industry certain incentives which were proposed but not implemented in the last Finance Act in 2004.

Mr. Vice-President, the economic outlook for Trinidad and Tobago remains positive. Our medium-term growth is robust, with real GDP expansion forecasting at 6.5 per cent this year and 7.5 per cent in fiscal 2006. The question I have not answered yet is: What is the revenue implication of this particular measure? According to the information that is available in respect of the year 2004, that amount is in the vicinity of TT \$400 million. However, in looking at the principles under which these amendments are being brought, we felt that these amendments will give us two things.

One, it will allow for some measure of transparency to take place in the determination of the revenue, because all of these incentives—if you will—or anomalies, however you put it, which were provided at a time when the industry was certainly in different times, are really not needed for the supplemental petroleum tax regime. It still exists under the normal PPT arrangements and therefore, the companies will still have their economics, and the economics of the operations will be dealt with at that particular level. This is simply an addition to that.

Energy exports are solid; inflation is largely under control. There have been some spikes, but there have also been positive job-creation spillovers from the hydrocarbon sector into the service and construction sectors. Our sustained period of strong economic growth has boosted job creation, with the latest unemployment data suggesting a reduced jobless rate of 7.7 per cent.

Although our overall fiscal outlook points to yet another surplus at the end of this year, this Government is mindful of the tremendous work that is still required in all areas as we move closer towards our goal of attaining developed country status by the year 2020. The provisions contained in this Bill reflect—

**Sen. Prof. Ramchand:** Mr. Vice-President, before the Minister stops, I did not get how much more—

**Sen. The Hon. C. Enill:** \$400 million.

**Sen. Prof. Ramchand:** That is in addition—

**Sen. The Hon. C. Enill:** Yes, that is in 2004.

**Sen. Mark:** Mr. Vice-President, this legislation is supposed to be retroactive to January 01, 2003?

**Sen. The Hon. C. Enill:** 2004.

**Sen. Mark:** I thought it was 2003, what happened?

**Sen. The Hon. C. Enill:** The original intention was for the legislation to be retroactive to 2003, however, in doing the research where we actually started to talk to the producers and the companies, and they agreed on the date; the date was 2004 instead of 2003, and therefore, we amended it after discussions, to 2004, and they have agreed.

**Mr. Vice-President:** Are you winding up now?

**Sen. The Hon. C. Enill:** Yes.

**Sen. Prof. Ramchand:** Mr. Vice-President, it is \$400 million additional. What percentage is that? So we are getting an increase of what per cent; 7 per cent; 8 per cent? If we were getting X before, we are now getting X plus \$400 million? So \$400 million is what per cent of X?

**Sen. Seetahal:** How much more is it, then?

**Sen. The Hon. C. Enill:** Before the amendments we were getting none.

**Sen. Prof. Ramchand:** None?

**Sen. The Hon. C. Enill:** Well, we were getting \$400 million. I would try to get the information for you, I do not have that available today.

**Sen. Seepersad-Bachan:** Is it about \$7 billion?

**Sen. The Hon. C. Enill:** Well, that is on other things. You are asking how much more in terms of SPT income does this represent? [*Interruption*]

**Sen. Prof. Ramchand:** Yes.

**Sen. The Hon. C. Enill:** I will get that for you.

**Sen. Prof. Ramchand:** So that you will be able to tell me what the SPT income was before.

**Sen. The Hon. C. Enill:** I would get that for you. The provisions contained in this Bill reflect Government's general objectives in the attainment of all its goals.

Mr. Vice-President, I just need to indicate that at the committee stage we will be moving the amendment as agreed, which I have said before.

With this, Mr. Vice-President, I beg to move.

**Mr. Vice-President:** Hon. Senators, we shall now take the lunch break. The debate will continue as soon as we resume at 1.45 p.m.

**1.03 p.m.:** *Sitting suspended.*

**1.45 p.m.:** *Sitting resumed.*

#### SENATOR'S APPOINTMENT

**Mr. Vice-President:** Hon. Senators I have requested time to do the swearing in of a Senator to replace the Hon. John Jeremie. I would like to do that now because the instrument is now available.

"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/ Linda Baboolal  
Acting President.

TO: MRS. JOAN HACKSHAW-MARSLIN

WHEREAS Senator John Jeremie is incapable of performing his duties as a Senator by reason of illness:

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 immediate effect and continuing during the period of illness of the said Senator John Jeremie.

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 19th day of July, 2005."

#### OATH OF ALLEGIANCE

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

#### FINANCE BILL

**Mr. Vice-President:** Hon. Senators, when we took the lunch break the Minister in the Ministry of Finance had just completed his presentation, I shall now propose the question for debate.

*Question proposed.*

**Sen. Wade Mark:** Thank you very much, Mr. Vice President. The Bill before us deals with a number of important matters, but its main purpose is to provide for the imposition of and adjustment to, certain tax measures, as well as other financial matters.

I would like to say from the very outset that I would focus on a number of important matters arising out of this particular Bill before us. I want to look at the amendment to the Second Schedule to the Customs Act. I would also like to look at the Securities Industry Act, No. 32 of 1995, as amended—provision. I want to get some information of the pensionable emoluments, the GATE fund as well as, benefits to certain regional institutions, with specific reference to the Caribbean Court of Justice (CCJ).

**1.50 p.m.**

Let me from the outset, extend congratulations to my colleague and friend. I understand he is the father of a bouncing young— [*Desk thumping*] A young Joseph has come into the world. I do not know if his name is Josephene [*Laughter*] but I would like to extend congratulations to him. I want to advise, however, that at one time we felt he was like a prisoner who was AWOL, away without leave. I saw in the papers today, where he indicated that he had taken paternity leave, which is a provision that we support, because it is something we believe that fathers are entitled to. [*Laughter*]

**Sen. Dr. McKenzie:** Do not spoil the thing. You are going nice, do not spoil it.

**Sen. W. Mark:** So, I would like to extend congratulations to him and to advise him on another matter, but I will talk to him privately on that.

Mr. Vice-President, the hon. Minister in his statement to this Senate made extensive reference to the state of affairs in this economy and he provided a very positive picture, by of course enunciating on some very positive developments taking place in the macroeconomy in Trinidad and Tobago. I would like to say, that whilst what the Minister said, what he indicated to this honourable Senate at the macro level cannot be disputed—he said, the economy is strong and it is growing, we anticipate a 6.5 per cent economic growth and next year it should go to 7.5 per cent. The inflation rate has steadied, balance of payments are positive in surplus, foreign exchange reserves seem healthy at this time, employment according to the Government is down to 7.7 per cent and, of course, the exchange rate, though under some pressure, seems to be ably supported by extensive intervention by the Central Bank in order to keep it afloat and for us to avoid a depreciation of the currency in Trinidad and Tobago.

How long would that be sustained for is anyone's guess, because I know in the 2004/2005 International Monetary Fund Report, the Governor of the Central Bank did in fact give an undertaking that he was prepared to allow the exchange rate to dip or to go whatever way it will. So I believe in the not-too-distant future, if the capital flight mounts—we know that there is a lot of capital flight at the moment and a lot of people are threatening to leave the country—we expect further pressures on our foreign exchange and our foreign reserves as well.

When we drill down to the micro level of this economy, the macro indicators give us a different picture. On the one hand the economy appears to be going very well: positive growth, strong currency, high foreign exchange reserves and good balance of payment surplus. But, what is the reality on the ground? At the end of the day we can have all the economic growth, we can have all the balance



of payment surpluses and good foreign exchange reserves, but if we are at the ground level there is problem—as we have problems—then you see the dangers that our economy really faces.

The health care system is in a state of shambles at this time. Poverty continues to increase and to escalate. I have seen for the first time where the Prime Minister has now come to the realization, after we have been scolded by both Sen. the Hon. Mustapha Abdul-Hamid as well as Sen. the Hon. Christine Kangaloo, who went to town on the issue of "there is no increase in the cost of living, people are happy" and they went to town and they attacked us when I raised a Motion on the "Escalating Cost of Living". I have seen where the Prime Minister has now set up a special committee comprising of Sen. Christine Kangaloo, I think, Sen. the Hon. Danny Montano and two other persons to look at this whole issue of the escalating cost of living. You know, the PNM lives in a state of permanent and perpetual denial, but I think the Prime Minister has begun to awaken from his slumber and he has given direction to his Ministers to look—we believe it will be looking on. This is a Government that looks on as the cost of living escalates and we do not have any confidence that they will address the issue.

The macroeconomy is great, but you know what, the economy, the society, the people—the nation is in fear. They live in fear in this country because of the escalating and explosive crime wave. As we speak we may have crossed the double century, we may have made a double century in terms of murders in this country, thus far. Just last night it was about 194 and at the rate at which people are being murdered in this country, I would not be surprised if we have gone over the 200 mark. When you drill down to the essentials that affect ordinary and middle class people in this country—I see DOMA for the first time, is speaking out against the Government.

**Sen. Seepersad-Bachan:** You see what I telling you.

**Sen. W. Mark:** They said that the Government has abandoned them. The Government does not listen to them and the downtown merchants are now saying they want to send a message to this PNM. They are going to shut down their businesses, because that is the only way that they believe they are going to get the ears of the Government and the Minister of National Security.

Mr. Vice-President, we want to get from the Minister of National Security at the appropriate time—this balloon that they have floating in the sky that could burst at any time, this bubble that they have going around the country making one set of noises, we understand it has cost about \$40 million, and we would like the hon. Minister of National Security to tell us who gave him that idea. Where did

that idea come from? Sen. Dana Seetahal is on record as saying here, that this special anticrime unit is an illegal body, that body does not report to the Commissioner of Police. We see policemen in the newspapers—and no one has denied it to date—saying that this anticrime unit led by Brig. Peter Joseph reports directly to his cousin, Martin Joseph; [*Laughter*] so it is a family affair.

**Sen. Joseph:** Can I— [*Laughter*] No, no, no! I mean as much as I will like, I have no problems, but we are not family and Sen. Mark knows that. He knows that. I have no problem. I am not disowning him, I do not mind, he could be my brother. But the reality is that he is not, and Sen. Mark knows that.

**Sen. W. Mark:** Mr. Vice-President, [*Steups*] I know and I withdraw. I thought a Joseph is a Joseph [*Laughter*] but apparently it is not so. Only in Tobago that happens, not in Trinidad! But I apologize to my colleague, if he is not related to the chap and he disowns him.

Mr. Vice-President, I would like the hon. Minister of National Security to tell this country where in the world you have a balloon floating about to detect crime like the one that we have, that we have spent \$40 million. I want to know what kickback was involved in this? What were the finders' fees involved? I know when these things happen people are being paid \$3 million, \$4 million and \$5 million in finders' fees, that is a normal thing in the PNM. I would like him to explain to this Parliament, at the appropriate time, not today. I still allow him paternity rest, until further notice, he could take some leave whilst he is here.

Mr. Vice-President, I come to the question of income distribution. Whilst the Minister of Finance told us that the economy at the macro level is great, the poor are becoming poorer and the rich are becoming richer, because the income distribution is extremely skewed in favour of those who own and control capital in the country, and the poor people are becoming poorer and marginalized and more vulnerable. The economic policies being pursued by the PNM regime are not bringing about and not bridging the gap between those who have and those who do not have. I wanted to just indicate to the hon. Minister, there has been no significant transformation and no significant diversification in this country. We still remain largely dependent on the energy sector and we know the consequences of being dependent on the energy sector, given our experience in the past.

Mr. Vice-President, I would like to immediately look at some of the provisions in the legislation as I lay the basis for some clarification. I want to refer you to a particular provision in the Finance Act and I think Sen. Dana Seetahal

made reference to it earlier. I refer to Part XVI, section 19 of the Finance Act, 2004 and this section says:

“The Privileges and Immunities [Caribbean Court of Justice (CCJ) Regional Judicial and Legal Services Commission (RJLSC) and the Caribbean Court of Justice Trust Fund] Order, 2004 is amended by deleting clause 7 and substituting the following:

‘Clauses 3, 4 and 5 are deemed to have come into operation on August 22, 2003’.”

I go to the Order which was debated in this honourable Senate. I must tell you that I was not around at the time when it was debated, but I had a lot to say and I would say it at this time. I did not get the opportunity then to say it, so I will take the opportunity to say what I had to say then. We go to clause 3 of this Order and it reads:

“The Court, the Commission and the Fund being regional agencies are hereby accorded all the privileges and immunities set out in Part 1 of the Fifth Schedule to the Act.”

It goes on, that is clause 4(1):

"Judges of the Court, members of the Commission and trustees of the Fund shall enjoy the privileges and immunities set out in Part II of the Fifth Schedule..."

And of course it talks about their:

“family shall enjoy ... (similar) ... privileges and immunities ...”

As well as,

“the officers and servants of the Commission and officers and servants of the Fund shall enjoy the privileges and immunities set out in Part III...”

Mr. Vice-President, when I go to the Act itself, which deals with privileges and immunities, Chap. 17:01, I want you to follow me very carefully, because I do not know if the Minister is aware, and particularly, the Minister of Foreign Affairs would need to pay some attention to this particular matter. Clause 4 of this Order says:

“Judges of the Court, members of the Commission...”

Members of what commission, Sir? The Regional Judicial and Legal Services Commission:

“shall enjoy the privileges and immunities set out in clause 2 Part IV of the Fifth Schedule...”

When I go to Part II of the Fifth Schedule under the Privileges and Immunities (Diplomatic, Consular and International Organizations) Act, Chap. 17:01, it reads, as one of the privileges:

“The like immunity from suit and legal process as is accorded to an envoy of a foreign sovereign Power.”

In other words, if you are a member of the court or you are a judge or you are a member of the commission which is the Regional Judicial and Legal Services Commission, you are immune from any legal action and any legal process.

Mr. Vice-President, I want to know if the Government knows what it is doing. I would like to know if this Government is aware of the consequences and the implications of this provision that they have sought to get our approval on. You know what is even more alarming about this provision, I listened very carefully to the hon. Minister of Finance; he said that the effective date, not only for the exemption from taxation, but all other benefits—and Sen. Dana Seetahal was very particular in trying to get clarification from the hon. Minister—and he said, blanket, clauses 3, 4 and 5 would be applicable in this particular instance. What is even more frightening, when the initial Order was passed in this Senate and was gazetted, it was effective from May, 2005. What the Government has now sought to do, in a very surreptitious way, is to make that Order that we passed—they have now brought another provision to make it retroactive to August, 2003.

Mr. Vice-President, we are going to be giving approval to a matter that would give coverage to all these judges and members of the regional court called the “Regional Judicial and Legal Services Commission” and all their families and members. But you know what is interesting, and I wanted to bring this to your attention sometime ago, but I did not get the chance. I want to do it today, because I believe that the Government is playing games with this Parliament. The Government is either totally incompetent or they are seeking to use this Parliament to commit an illegality!

I refer to the *Express* of April 17, I think, 2005, page 3. Do you know what the headline in this newspaper is? “CCJ head...”, that is Justice Michael de la Bastide “to probe \$12m lawsuit”. I want to read for you and for the Senators who are here the following:

“President of the Caribbean Court of Justice Michael de la Bastide intends to launch an investigation into claims that a member of the Regional

Judicial and Legal Service Commission (RJLSC), the body charged with selecting judges for the Court, allegedly swindled close to \$12 million from a Danish foundation.”

This is a member of the Regional Judicial and Legal Services Commission. Mr. Vice-President, I go on. His name is Othneil Sylvester he is a prominent attorney and a former President of the Eastern Caribbean States Bar Association, he is a native of St. Vincent and the Grenadines.

Mr. Vice-President, do you know when he was appointed? He was appointed a judge at the level of the Regional Judicial and Legal Services Commission in July, 2003. Mr. Vice-President, in July! We have an Order that said coverage, privileges, retroactive to August, 2003. Mr. Vice-President, I go on:

“According to details of the pending court action—which was filed in February 2004, a Danish private commercial foundation, Faellesje, claims that in July 1984 it entered into an agreement with Sylvester, who then acted as their solicitor, to purchase a group of estates on the island of St. Vincent and the Grenadines, comprising of approximately 3,300 acres and known as the Orange Hill Estates.”

Mr. Vice-President, I wonder if the Minister of Foreign Affairs knows what he is attempting to get this honourable Parliament involved in! I bring to your attention that the Minister of Finance has told this Parliament that the measures under this particular provision of the Act, which is Part XVI clause 19 dealing with “Privileges and Immunities”, is going to be retroactive to August, 2003. Do you know when this Danish firm took action against this gentleman who is now a member of the Regional Judicial and Legal Services Commission? It was in February, 2004. We are being asked by this honourable Parliament and through the PNM, the Minister of Finance to give this gentleman who is now before the courts—

**Sen. Seetahal:** Exemption.

**Sen. W. Mark:**—blanket exemption from legal proceedings that are currently in train against this man.

**Sen. Joseph:** In Trinidad?

**Sen. W. Mark:** No! Not in Trinidad. What I am saying, this would be something that is being done throughout the region, because once it happens here—we are now part of a family—so we expect other Caribbean countries to follow suit. Is this not illegal! Is this not improper! What exception are we getting

*Finance Bill*  
[SEN. MARK]

from the hon. Minister of Finance in relation to this particular matter? So, a man could rape, a man could “tief” and a man could mislead people and if he is in the court of law where matters are being brought against him and we are now going to bring a measure before this Parliament, exempting this person from all future proceedings.

Mr. Vice-President, this is wrong! I think the hon. Minister would be well advised to delete this provision and confine it only to taxation measures or to tax measures. But, to make it a blanket arrangement, consistent with this particular Act called “Privileges and Immunities (Diplomatic, Consular and International Organizations) Act, Chap 17:01”, in accordance with the Fifth Schedule Parts I and II, I think we are treading on dangerous grounds. I want to urge the Minister of Finance and the Minister of Foreign Affairs—the Attorney General is not here—that this Parliament must not become party, by implication and extension, in any matter that could be misconstrued as covering up, as facilitating an illegal action and covering up what I call, activities that ought to be properly settled in a court of law in these regions or that particular part of the region.

I bring this to your attention because I believe it is a very serious matter and I do not believe that we are going to support this measure. We would want the Government to amend the relevant section of the law to ensure that this particular gentleman, who is now before the court, let him go and clear his name! But we must not use the law in this instance to pardon that “fella”. We must not do that and that is what this is about. I am bringing it to your attention because I believe it is a very serious matter! I was very happy when Sen. Dana Seetahal made reference to it in terms of getting from the Minister of Finance exactly what was the nature of the exemption, whether it was confined to taxation or whether it was a blanket kind of exemption. He has told us it is a blanket exemption and retroactive to August, 2003. That is wrong! We cannot support that! That is a criminal matter before the courts. Let the courts decide that! We must not get involved in that matter. If the PNM felt they could have slipped this thing in quietly and get away, not under us. We are very watchful and very observant to ensure that the rights of the people are not in any way compromised by this regime.

Mr. Vice-President, I would like to go to another matter in the Bill and it deals with the whole question of customs. I would like the hon. Minister to tell this Parliament how much moneys, how much income and how much revenues in this instance, are we as a nation foregoing as a result of this measure that the Minister of Finance has introduced in his 2004/2005 budget statement. My information—

and he can correct me if I am wrong—I understand, and let me read the provision for you. It is Part X clause 13 of the Finance Bill. It says:

“The Second Schedule to the Customs Act is amended at item 6(aa)(5) by deleting the words \$1,200.00 and substituting the words \$3,000.00.”

in its place:

“The exemption from customs duty granted on or after October 8, 2004 by an officer of customs in respect of goods not exceeding \$3,000.00 in value which accompany a passenger, shall be deemed to be valid.”

Mr. Vice-President, we know that many citizens travel and, of course, when they travel they bring back small items or they may even purchase small items at the airport as the case may be. Here it is, the Government has taken this step to increase the amount from \$1,200 to \$3,000 a year. We did not get from the hon. Minister in the Ministry of Finance what was the revenue foregone in this particular instance; we did not get from him how many passengers he anticipates would really benefit from this because they must have made some assessment or analysis of this particular matter before they introduced this measure for adoption. I believe we need to get some information.

### **2.20p.m.**

My information is that the country is going to forego some \$9 million to \$10 million annually as a result of this measure. I do not know, but that is the information I have been able to come up with. More importantly, we would like to know from the Minister in the Ministry of Finance—I know that this is a high-flying Government; they like to be in the air flying all the time. So much so that when I asked a question recently about the Prime Minister’s trip to Peru, Chile and Venezuela, and exactly which flights he took, on which airline he travelled, the Prime Minister in his response to you, this Parliament and to me, said that he travelled by commercial airline. “He bound to travel by a commercial airline, unless he went to Chavez country and dey give him a military helicopter to come back.” I did not want to know he travelled by commercial airline, I wanted to know what was the name of the commercial airline on which he travelled, whether it was British West Indian Airways (BWIA).

I understand that a development has taken place where this Prime Minister now travels by private jet owned by Guardian Holdings Limited (GHL) so today he no longer travels by BWIA and he hides the information from the population to indicate that he travels by private jet. So he gives me information saying: I went from Trinidad to Chile by commercial airline. I know that. I travelled from Chile

to Peru by commercial airline. I know that. I travelled from Peru to Venezuela by commercial airline. I do not want to know that. I want to know the name of the airline on which he travelled.

My information is that the Prime Minister, instead of supporting BWIA is using taxpayers' money to travel on a private jet owned by Guardian Life Holdings Limited wherever he goes these days. So he went to Peru on Guardian Life Holding's private jet. Do you know how much Guardian Life Holdings got from that Peru/Venezuela/Trinidad trip? It got \$81,426.90. Why the Prime Minister, who boasts about being transparent and open, could not level with the population through this Parliament by saying that he travelled by Guardian Life Holdings Limited private jet? Nothing is wrong with that, Mr. Vice-President. If the Prime Minister wants to travel by private jet, that is no problem. In fact, one day he might even travel by the balloon that is now floating in the sky. But tell the country the truth.

Mr. Vice-President, given what is taking place in this country, the Prime Minister, through the Minister in the Ministry of Finance, his junior, must level with this Parliament. Tell us how the Prime Minister travels these days. He has abandoned BWIA, and I do not support that. I support BWIA and I think we should finance and subsidize BWIA and keep it in the sky, flying high. That is my position on BWIA. For the Prime Minister to abandon BWIA in favour of a private airline, I say that is an act of betrayal. All BWIA needs is proper management and if that is done, everything will fly nice. He does not have to abandon BWIA for Guardian Life Holdings. I want to know if the Prime Minister has shares in Guardian Life Holdings Limited. Is that why he travels on that private jet every time he goes abroad? Let us know in your winding up.

I want to continue on the question of the Customs and Excise Division. I know that the hon. Minister in the Ministry of Finance is a good soul but he is in a dangerous body called the PNM. He means well and when I extended the time this morning, I heard him say "Government". "It ain't no Government boy, is because of you." "If it wasn't you I ain't going and say send nutten to no PNM." It is because of Sen. Conrad Enill, you are a decent "fella".

Mr. Vice-President, I was a bit shocked because I know he is concerned about efficiency, he always talks about constitution reform, although he does not call it that. But every time he gets up to speak, and he lays his problem before us, he is talking about constitution reform.

He said, and I agree with him, that the customs is very important to the national security in Trinidad and Tobago. But I understand that the hon. junior



Minister in the Ministry of Finance has a candidate for the post of Comptroller of Customs, his name is Mr. Fitzroy John, an attorney working in the State Solicitor's Office who, I understand, has a close relationship with the party and the Prime Minister of this country.

Do you know that the Minister, my dear friend, in an article in the *Sunday Guardian* dated July 10, 2005 was very blunt and open on this issue? He said that he has a person in mind and it is a Government favourite. I quote:

“He admitted though, that the person alleged to be a Government favourite was, indeed, the man he wanted for the job, but said this was because of the attorney's competence, rather than his race or political affiliation.”

Mr. Vice-President, we have to be careful because you see perception sometimes turns into reality, and if you give people the wrong perception it will make them think a particular way. If there are a number of persons who are earmarked to be Comptroller of Customs, and you have the Government—and the Government has its right, I am not saying it does not have the authority to do it. The Government changes the entire rules of the game when people are supposed to be promoted.

It is now saying through a circular which was issued by the Director of Personnel Administration (DPA) that this particular person is required to have a recognized degree in management, finance, law and one of the social sciences, or in a related field, and all the candidates who are apparently in line for promotion to the post of Comptroller of Customs do not satisfy this criteria. So the Minister, in violation of regulations 14 and 15 of the Public Service Commission which allows for promotion from within the public service by competition, is seeking to get somebody from outside the Customs and Excise Division of the Ministry of Finance.

Mr. Vice-President, it has to be done right to get it right. I would say to my honourable friend that the Public Service Commission is the body that is responsible for appointing these people. Until we decide to reform that body to make it stronger, let the Public Service Commission go about its business because you are going to get allegations coming out of favouritism, nepotism, corruption, racism and discrimination which may not be true, but you are going to get a lawyer filing for judicial review shortly. I am not saying that you cannot do it, you have done it, but the perception is that you are backing a particular horse in the race. “That horse not even in de stable boy.” The horse is not even within the customs department. I understand that he—

**Sen. Gift:** Thank you, Mr. Vice-President. In his intervention, Sen. Mark posed a couple of questions both to the junior Minister in the Ministry of Finance as he describes him and myself, regarding the means of transportation by the Prime Minister to Chile and Peru. For purposes of the record, I want to say as far as the Ministry of Foreign Affairs is aware, seeing that the reservations were made through us, the Prime Minister travelled to and from Chile and Peru by Land Chile, that is the Chilean National Airline.

**Sen. W. Mark:** So the airline picked him up here? How did he travel from here to Caracas?

**Sen. Gift:** By BWIA.

**Sen. W. Mark:** How often has he travelled by this—[*Laughter*] No, no, anyway, Mr. Vice-President, let me continue because he would take my time.

**Sen. Enill:** Mr. Vice-President, so that my good friend does not go along a path that does not make sense. Insofar as that is concerned, the issue is as follows: I have been hearing that we have this candidate since I got into office. We have appointed six comptrollers in about three years and every time I hear the same story. The fact is that in 1992, the then comptroller decided that he wanted to change the conditions, it only happened in August, and once that happened, the information was sent to the DPA and it is on that basis comptrollers are selected. I have heard that for the last six comptrollers they have appointed.

**Sen. W. Mark:** Okay. Mr. Vice-President, I am just reading from the newspapers and no one has denied it. I will repeat for the record.

“He admitted though, that the person alleged to be a Government favourite was, indeed, the man he wanted...because of the attorney’s competence...”

This is what he is quoted as saying. So why did you not deny it before, my brother?

**Sen. Enill:** Because you did not ask me before.

**Sen. W. Mark:** I did not ask you before, so you did not read this before?

**Sen. Enill:** I am denying it now.

**Sen. Dumas:** You are making policy by newspapers now?

**Sen. W. Mark:** Mr. Vice-President, the reality is, and I am saying that the PNM is politically interfering in the affairs of the Customs and Excise Department and is seeking to get its own person to be the next Comptroller of Customs just

like it did at the Land and Surveys Department to the Commissioner of State Lands. It is the same approach. Ganga Persad Kissoon was supposed to be the person earmarked for the post of Commissioner of State Lands and he did not get it.

**Sen. Dumas:** On what basis?

**Sen. W. Mark:** That is the perception and I could be wrong. All I am saying is that you need to ensure that you get your hands out of the customs, let the Public Service Commission do its work, and do not go there saying you are backing any horse. “Doh do dat at all. Yuh out of order, totally out of order.”

Mr. Vice-President, the junior Minister is wrong on this count and he must get off that track. Do not go there, otherwise I will come back and expose him fully again. Good. *[Interruption]* No, this is a partial disclosure. “Ah coming with de full disclosure shortly, because he ain’t finish.”

**Mr. Vice-President:** Hon. Senators, the speaking time of the Senator has expired.

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

*Question put and agreed to.*

**Sen. W. Mark:** Mr. Vice-President, I go to the Securities Industry and I ask: By increasing the number of commissioners from five to seven, is this a case of jobs for the boys and girls of the PNM family? I found it a bit strange because this particular company or commission has been operating for a number of years and we still do not have the mutual funds legislation before this Parliament. We have all kinds of commercial institutions providing this particular product to the population and there is no security for mutual funds in this country.

One is taking a risk when one goes into a mutual fund scheme. If that bank collapses, there is no cover so I am wondering why the Minister of Finance has taken so long. He tells us that the Securities and Exchange Commission has a lot of hearings and a lot of work to do, and he made reference to mutual funds, but there is no legislation for them.

I noticed recently in the newspapers and I refer to the *Trinidad Guardian* of Saturday, April 16.

**Sen. Dr. Saith:** Stop quoting the *Guardian*.

**Sen. W. Mark:** No man, I must quote the *Guardian*. You used to work there. You were working for McAl between 1991 and 1995. Why are you attacking McAl now? You must never bite the hand that fed you. You worked for McAl, they paid you, now you are attacking the *Guardian*. You do not want me to quote from the *Guardian*? The *Guardian* used to feed Lenny Saith. [Laughter] I take offence to that. I am defending the *Guardian*, he is attacking the *Guardian*.

Mr. Vice-President, let me return to this particular matter. You see, he tried to disturb me and I had to keep him in check. Checkmate him any time he gets up. [Laughter]

May I refer to the *Trinidad Guardian* of Saturday, April 16, 2005. It says:

“SEC requests more info about RBTT/GHL deal.”

This should be good news for Sen. Dr. Saith because I know that he and the late Nas Ahamad were great friends. I know that for a fact.

**Sen. Joseph:** You have no respect.

**Sen. W. Mark:** No, I do not respect—no, paternity leave, please. I have granted you that. Good.

Mr. Vice-President, I found it very interesting and I would like the hon. Minister to tell us what the current state of affairs in this matter is. RBTT had some transaction which took place on April 01 involving some \$400 million. This came as a result of a transaction involving the major shareholders of Guardian Holdings Limited.

Now, you know that Guardian Holdings Limited is made up of RBTT and a company called Tenitech Limited which holds 17 per cent of GHL. This company is owned by the 2020 Vision Chairman, a chap called Arthur Lok Jack. He owns 20 per cent, or he owns the company. Do you know what happened here? Himself sold to himself shares amounting to \$400 million. This is something that ought to have come on the market so if you and I would like to invest in Royal Bank shares which were being sold at \$43.99 at that time. They were taken off the market in a “put through” that was not disclosed until the *Trinidad Guardian* questioned Guardian Holdings Limited and RBTT. Because of the fact that the Securities and Exchange Commission looks at these matters, it came into the picture and:

“‘requested some additional information’ concerning the April 1 transaction in which 9 million shares were sold to Arthur Lok Jack and the Ahamad family.”

Dr. Saith would know them very well. He knows Ahamad better than me.

Mr. Vice-President, I want to find out from the hon. Minister if he can give us an update because we are under the distinct impression that the rules were broken and persons whom we are supposed to be looking up to were involved in very suspicious transactions at the level of this arrangement, and I would like the hon. Minister to let us know what is the current status of this major throughput that took place on April 01, 2005. It was done in secrecy, nobody knew about it, we had to probe to find out about it and it was totally irregular.

**Sen. Seetahal:** It is a crime.

**Sen. W. Mark:** It may not be a crime, but I would like the hon. Minister to let us know what is the latest on this matter, because I saw a Mr. Ebers, from the United States of America who got 25 years for committing fraud. So the SEC has to ensure that these so-called private companies are not manipulating the system and committing criminal acts against the population. Not because the gentleman is a chairman of some so-called 2020 Vision. That is no vision. You must not use your party connections and position to undermine the system and that is what happened here.

So we call on Mr. Arthur Lok Jack to explain this transaction to the population, and we also call on the SEC to act and issue a statement on this matter because it is a very serious matter.

I go to the Government Assistance for Tuition Expenses programme (GATE) funding. You know this PNM is the most jokey, mickey mouse administration we have seen for a long time? It met our Dollar for Dollar programme, it is so wicked, vindictive and spiteful, it wants to mislead the population by saying it brought something called GATE, because it wants to get rid of the name Dollar for Dollar.

It built a university and changed the names of all the institutions that we built. What was the Trinidad and Tobago Technology Institute changed to? UTT, the University of Trinidad and Tobago. It is uncreative; it did the same thing with GATE. What is GATE? It is Dollar for Dollar, the only difference is the Government says it has a so-called means test so if you are poor and cannot pay, it would pay 100 per cent. But we were doing that too.

This is mamaguy. It is cosmetics. GATE is Dollar for Dollar, but the Government just wants to mamaguy people saying it is a PNM initiative. What PNM initiative? PNM borrowed that from the UNC. Admit it!

**Hon. Senator:** It was improved.

**Sen. W. Mark:** Improve what? You all improved nothing.

I go to old age pension. This Government passed the budget in September 2004. It issued Provisional Collection of Taxes Orders. It proceeded to spend moneys in a reckless and wild way, returned to this Parliament for an additional \$3 billion as supplemental and has now come to this Parliament 10 months after the budget was passed to give legal effect to provisions it has already executed.

You see this Parliament is being disrespected by the PNM; it has no respect for the Members of Parliament. If the Minister wanted to bring the supplemental petroleum tax matter, that could have been in the form of a separate bill. Why must it take 10 months to bring for validation and approval by the Senate decisions it would have taken in September 2004? We are in July and now debating measures that were contained in the 2004/2005 budget. If that is not incompetence, I do not know what is.

The sum of \$1,150 for poor persons as pension is totally inadequate. The evidence is showing today that for a man to live decently in this country he needs a minimum of about \$5,000 to start.

**Sen. King:** And woman.

**Sen. W. Mark:** So they are fooling themselves and believing—man and woman. I know in law, Sen. King, man means woman, and him means her. That is what I know. That is what I have been told, Mr. Vice-President. I may be wrong but just to correct the record, I meant man and woman.

Mr. Vice-President, I would like the hon. Minister to give us an explanation why it has taken the Government so long to bring this measure.

The last matter I want to raise, I think that the Minister of Finance owes this Parliament an explanation on this so-called PetroCaribe deal. We want an explanation from the junior Minister in the Ministry of Finance and the Minister of Foreign Affairs. What went wrong with the PetroCaribe arrangement? Why did President Chavez outsmart our Prime Minister? How was he able to get all these Caricom countries and their leaders to sign on the dotted lines putting Petrotrin in deadly trouble?

In spite of whatever measures mentioned today, unless the Government does not deal with that question on the PetroCaribe deal, Petrotrin is in deep trouble in Trinidad and Tobago. And I want the Minister of Foreign Affairs and the Minister

in the Ministry of Finance to tell the Parliament what is the current status of the PetroCaribe deal that took place between those two countries.

Thank you very much.

**2.50 p.m.**

**Sen. Mary King:** Mr. Vice-President, many of the items before us in this Bill today are really housekeeping, regularizing decisions taken and approved in the last budget debate. One may question why it took so long to bring them but that would not really add any substance to the debate. So I would focus my intervention on Part VIII of the Bill relating to petroleum taxes.

For a long time now we have been promised an update on our petroleum taxation legislation since there is a general feeling among the population that we are not getting our just due from the industry, one in which our major contributions are our major natural resources, the oil and gas resources, and these are depleting assets. Thus, I agree that we must insist on getting our just rewards. We have been told also on many occasions that we have hired consultants to advise the Government on this new taxation structure. We have recently been told the plan is completed but what we have before us today is just the start. I agree that what is before us today could not possibly be the sum total of this taxation restructuring exercise and that it is simply an interim measure to allow us to reap some benefits from the current high energy prices.

So I really want the Minister to tell us—and hopefully he will tell us today—when we can expect the total restructured taxation regime to be presented to this Senate. What is before us today moves the supplemental petroleum tax on revenue as opposed to profits; it moves it a few percentage points in the various ranges, from 36 per cent for prices of oil above \$49—\$51 to 42 per cent, and it adds the deletion of allowances for the exploring companies.

The Minister has just informed us in the closing remarks of his presentation, that the increase expected from this new measure is TT \$400 million, calculated for 2004. This equates to a little less than US \$65 million, and if we are deducting all the allowances and increasing the taxes on the increased oil production, it does not seem a very real figure and does not add very much to our 2004 coffers, so I have a question on that.

We have to bear in mind that the SPT is also an allowance in the calculation of the profits petroleum tax, which is the corporation tax for the sector as a whole. So it could end up as a zero sum gained, because what we will gain in taxation, the producers will really be making a loss, and if we are not careful, there has

been the fear expressed that this could actually slow down foreign direct investment. Some of us feel that if it does slow down foreign direct investment, that we actually could have a credit, in that it will be less of our depleting resources used and we can actually have some conservation of some for the future use. I think this might be a very good thing for us at the moment. So it might really bring us a plus.

Although we are expecting—and a lot of us are hoping—that we would find more oil, we know that today our energy sector is predominantly a gas economy and we have even experienced bpTT selling its old oilfields—today it was announced—to Repsol, its joint venture partner. Because of production these fields were not a significant part in the scheme of things for British Petroleum. BP's core business is now in Trinidad and Tobago, a gas business. Also, it is important to note that the SPT only applies to the production and sale of oil and liquids obtained from gas production. In other words, the tax adjustments that are before us today will have absolutely no impact on our natural gas business, the business which has become the major activity in the energy sector. Hence, I also have to put to the Minister: Is the SPT to be extended to cover the natural gas business? We have been told by the Executive that there is more to come in the plan, so I am hoping that the Minister would give us some answers today whilst we wait for the big picture.

If we look back at the history of the energy sector in Trinidad and Tobago, initially we saw gas as a nuisance. In fact, in the beginning it was flared and sometimes we used it in gas lift exercises, and as a result, if it was sold at all it drew very little in the way of royalties or fees of any kind, not that royalties are significant in the petroleum taxation total take. If you look at many countries today they are actually replacing royalties by more progressive taxation structures, which seem to be the way that Trinidad and Tobago is also going to go. So that my question could be quite clear in looking at the whole approach.

I want to quickly look at the pricing of oil and natural gas and how our Government gets its tax take. The price of crude oil as a globally traded commodity is listed and sold at world price, say Brent crude, and if we look at Brent crude price today it is actually US \$58 a barrel; down a dollar, but still quite high. Hence, given the quality of our crude which we export from Trinidad and Tobago, its international price can really be estimated. Hence the production companies are charged an SPT; they are also given certain allowances and the petroleum corporation tax is 50 per cent, but this also takes into account these allowances and the SPT.



So I think the idea behind this new system, this new restructuring of the SPT, is to allow us the benefit from today's very high crude oil prices. Now, normally this benefit is short-lived because prices are not always at a high level for a very long period, but if we are looking down the road today, those who are studying the energy industry know that we are into a prolonged period of very high energy prices. We have already talked here about peak oil production and what that means for our oil price, so it does have a part to play in the very high oil price that we are seeing and we expect it to be prolonged.

In the natural gas pricing structure, there is no equivalent world price. However, what has developed is that certain commercial marketing nodes, like Henry Hub of the USA, do provide us with indicators of how natural gas prices are going. Our direct export of natural gas is by way of LNG and the pricing structure here is what has become known here as the net-back pricing. How this works is that the price of natural gas at the degasification hub, say, in the US, is taken as the starting point and the price is worked back to the upstream provider at the well head, taking into account all the various expenses along the production chain and all the allowances, and we have allowed the LNG plant to have a 9 per cent return on investment as a, sort of, cost of capital allowance, and the rest will go to the well head, the supplier. The plant is charged at the rate of 35 per cent corporation tax and the well head producer pays the 50 per cent PPT.

It is clear that nothing in this current agreement caters for higher than normal gas price as we have done in the oil regime. Recently we have also seen that the prolonged high prices of oil and the need to use more and more clean fuels, have also been driving up the price of natural gas. So I feel that we also have to put in place a regime that will be equivalent to the SPT for natural gas if we are going to be taking advantage of these high gas prices, and I am sure the Minister will agree that what is good for the goose, as they say, is good for the gander. And gas prices, when we were talking about our first plant, I think have moved from roughly US \$1; today it is over US \$7.5. So what are our benefits from this high gas price, and what is Government's thinking when we are looking down the road to what we are going to do with gas taxation structures?

I would also like to look at the new kinds of contracts that we have been signing and working with over the past couple of years: the petroleum production-sharing contracts (PSCs). In this contract our Government remains the owner of the resource—the oil and the gas—and the operating company is given the production-sharing contract, really to do the exploration for the petroleum. And if petroleum is found, we also allow them the opportunity to produce the oil and

sometimes we even allow them to market it on behalf of the Government. We also must bear in mind that if nothing is found, that that contractor will get nothing and, therefore, his price for working over is reflected because of this risk.

If we get petroleum, Government allocates to the contractor that part which is called cost-recovery petroleum, so we really reimburse him for all his exploration and operating costs and the petroleum that remains after that is what we then call profit petroleum, and that would be divided between the producer and our Government in proportions that would have been set out, obviously, in the production-sharing contract. A part of this profit petroleum allocated to Government is in lieu of taxes that should have been paid by the contractor. Some say that the Government is paying the taxes of the contractor.

So looking at that arrangement and in the context of this Bill before us, I would like to ask the question: Is that contractor also exempt from SPT, or will that contractor be also charged an SPT on gross revenue like the other producing companies? My next question to the Minister, since this is my understanding: The proportions for dividing up the profit petroleum are set by the production-sharing contract. Will this proportion or division be adjusted to reflect the new SPT structure? Will there be a different division, a restructuring of the new kinds of contract so that we take into account this new regime of the SPT? In other words, is such an adjustment part of the production-sharing contracts? I think this concern applies also to the major petroleum taxation restructuring that we are told is still being worked on and that we have ahead of us. So that question would apply to both of those scenarios and I think some clarification is needed here since the Bill recognizes these subjects are SPT, but it is unclear of the impact on the actual contract with respect to Government paying its taxes from its share. I am really referring to clause 11K of the Bill here.

I would also like to look at the wider problem of the taxation of our produce petroleum resources and its ability to properly compensate the people for the use of a depleting resource. We have been told—and we agree—that we need a restructuring of the tax regime because we are not getting our fair share of the proceeds. My problem and question to the Minister—I am sorry for so many questions but it is the only way we will get some clarity on some of the issues within the Bill. The question to the Minister is: What is the model that we intend to use—and I do not mean what is necessarily current practice in the international energy sectors or in other parts of the world—to identify what is fair to both sides?

Now, there has been some work done by one of our local scholars, Justin Ram, who did a study—he recently developed a model which looked at all the aspects of the energy sector and the value chain. An important consideration of his model which, of course, our foreign direct investors dismissed as not being very relevant, but what he brought into his model is the discussion on the concept of opportunity cost, which everybody knows is a very valid and real concept in economies and even in the small firm. So I do not see why it could be dismissed so quickly. If we look at the particular area, in the net-back method, the investor gets both return on investment—that is his cost on capital—and he also gets plant depreciation. So the latter is really a refund on the capital investment that he would have spent on the project.

Now what do we get in Trinidad and Tobago by way of taxes? We get the rent for the use of our depleting natural resources. And the question that comes up is: When our natural resources are completed, depleted, done, unlike the investor with his depreciation allowance and his return on investment, we would actually have nothing. Hence our taxes have to—they do not now, but I feel that they have to—include this opportunity or depletion cost, or to be more specific in economic terms, the marginal user cost of the resource.

I do not feel that this reimbursement is at all absurd, as had been stated by some of the foreign direct investors, since the sustainable exploitation of any renewable natural resource—and you only have to look at forests—a legitimate expense incurred is the replanting of the forests; so it is a very simple concept. We cannot refill oil and gas reservoirs, hence we should be compensated also for their depletion. And if we look closely—and some of us have examined the work of Dr. Ram—it is estimated that there is an effective rate of return to us in Trinidad and Tobago, of 7 per cent and to the private shareholders, like the foreign direct investors, a return at the lower boundary of some 56 per cent and a return at the upper boundary of 342 per cent. So taking different plants over the history of the plants, these have been a lower boundary of 56 per cent return and an upper boundary of 342 per cent.

I did a “back of the envelope” calculation on this for one of the LNG trains. If we consider the LNG Train 4, over the 20-year life of LNG Train 4 the Government is expected to receive \$58 billion, using the price of gas at the degasification hub at US \$5. Actually, today it is US \$7.9 this morning at Henry Hub. So the value of the Train 4 gas delivered to this station is TT \$177 billion and the investment cost of the plant was \$7.6 billion, which would be recovered by the shareholders by way of depreciation and all the other allowances that they get.

In other words, we who own the gas will receive \$58 billion out of the project worth \$177 billion, but we also must bear in mind that the price at the degasification station is not the end of the value chain. And if we will just look at one step further down the road in the value chain, consider, for example, using this gas to produce electricity which is sold at US 7 cents per unit. This is equivalent to a price of US \$12.8 over the whole value chain. So in other words, the total value chain of Train 4 is actually worth TT \$454 billion of which we would receive TT \$58 billion.

In 2002, I distinctly remember our Prime Minister telling us there would be no Train 4 if we do not get more of the spoils. Now we do have a Train 4 and I ask the question: Did we get more of the spoils? What exactly did we get from Train 4? We still do not have the updated petroleum taxation structure and, therefore, we need to know what is the model that we intend to use to develop this tax structure. We need to have it and we need to understand the model.

A joint select committee has asked the Ministry for the model; it has not been brought forward. I think at this stage when we are so far down the road of its development, we need to be able to see it and to understand it and to know what exactly it is we are doing. I think this could apply to Minister Sahadeo, perhaps, who has been telling us of the transparency initiative in the extractive industries and we still have not had any statement from the Government on what have been our actual receipts from the companies involved in the extractive industries. So we can tie them together but please let us now have the model and let us see what it is we are working with. Further, will the model include, I hope, the concept of marginal user cost where both the opportunity costs and the earnings of the whole value chain will be considered? Because remember we are the owner of the depleting resources.

We cannot proceed today without discussing in this Bill—and it has been, I think, brought home to many of the people in this Senate—that there are major concerns for our small oil and gas—as we call them—our small gas producers—small oil versus big oil. Reports coming out of the last two annual petroleum conferences—the two that were held here; some of us have been to others held abroad, but the two that were held here, major problems emanated from these conferences, indicating that big oil and gas—foreign direct investment—are doing very well, but the 15—20 very small local independents involved in reactivation projects are not doing very well.

Big oil, excluding Petrotrin, of course, is all foreign-owned and our small oil is an attempt by our locals to get involved in the upstream industry. And recently

we note another intervention in the sale of venture production, again, to local interests. We must bear in mind that these small producers are attempting to work very mature fields—very mature assets—with their particular problems of competition for scarce staff and also global competition for capital.

The feeling is that small oil and gas, if given the opportunities, can grow into very successful companies that are locally owned and thus could be major earners of foreign exchange, but the problem that they are up against is that they are treated just the same as if they were big oil and gas with respect to taxation and other fiscal matters. And if we do not intervene and this does not change, then there will be a decline in local involvement in small oil and we will see, perhaps, its eventual demise. This is how local professionals see it and have predicted will happen if we do not have an intervention of some kind for the small oil producer.

So questions I would like to ask are: Does the Minister see a role at all for small oil and gas in the future energy sector? If he does, then what kinds of incentives, fiscal and otherwise, will be given to small oil so that we can facilitate its growth? After all, we have been seeing over many years, foreign direct investment get very major incentives, some of them tax freeness for years in some cases. So we need to be aware that we have got our own to develop and we have a responsibility to do that.

Another question is: Should the windfall benefits from oil not be used in some part to encourage this sub-sector of the energy sector—oil and gas? Will the new SPT structure and including what is still to come, not put further financial pressure on these local small oil producers? Will it further inhibit local investment in the area, or as some fear, will it even cause closures? I think of fundamental importance is the question of: To what use will we actually put all of these increased earnings which are emanating from this new SPT, and in the future the earnings that we will receive from the whole restructured petroleum taxation regime?

We have accepted, and the Government has accepted—I think everybody has accepted—the need for the Revenue Stabilization Fund, although the Senate has not yet seen the Bill that would define how this fund would be managed; its inputs and outputs details. However, revenue stabilization is simply about creating a buffer so that it will make the money available to Government appear steady in the face of any fluctuations in oil and gas prices. Many of us believe that these prolonged pricing structures will continue and that we will see our savings grow at very good rates in the future, and at this stage I would like to add that to talk about a devaluation in the scope of things that we have here, with the large

earnings and the reserves that we have, makes absolutely no sense, and I cannot understand it even being on the table.

But that aside, together with this increase in earnings, we know that we are going to see major budgets—multi-million dollar budgets—and probably subsequent billion-dollar supplementals and variations and appropriations; we will continue to see energy product subsidies to the people via subsidies to NP and to T&TEC. As one of our colleagues in the other place said recently: “Let the good times roll.” We are going to see, probably, a lot of that. But my fear is that we are not really preparing for the day when our natural resources will decline—they are declining—and when they will be depleted. We will not be able to support the activities of the country and I feel that we need to use our savings to re-engineer the rest of our economy, what is known as the onshore. The offshore is doing very well and looking after itself. But if we do not use the earnings from the energy sector now to re-engineer the onshore, then what will eventually become of us in 10—15 years?

So we need to focus—and I think the budget is coming up and I am hoping desperately that we would see another positive movement which we thought we saw last year. I have not seen any movement on it since, but we thought we saw last year a positive movement in the creation of an innovative industry. We have to convert the sector into one that is innovative and can eventually replace and surpass the earnings that we are now getting from the present energy sector, and we know it would take 15 to 20 years, so you cannot wait much longer to start planning.

We know we are spending large amounts in bringing down the unemployment rates; we know that large amounts are being spent on the Unemployment Relief Programme, CEPEP and building new buildings, but these things are not really about creating a replacement economic vector for future onshore growth. These kinds of jobs are temporal and they are certainly not sustainable jobs. The energy sector should not be simply about earning and saving as fast as possible for the future, and investing in the US stock market, the United Kingdom stock market, or anything else, is simply not going to produce any sustainable economic development in Trinidad and Tobago or any sustainable jobs here. That will not come out of offshore investment. We are very fortunate at this time that we have the taxes, especially what we would now be getting in increased taxes through the SPT, and if properly utilized, it could actually assure a sustainable economic future and few of us in the region, the CSME—all throughout the region—none of them

actually has that potential and, therefore, they will have problems, but we, obviously, can help to solve some of those problems.

At this stage, I would just like to briefly discuss Mr. Chavez's proposal, PetroCaribe. In its present form it is not going to have any effect whatsoever on our earnings and the impact on taxation earnings of Trinidad and Tobago, besides the negative impact it would have on Petrotrin which, of course, we have to deal with. The offer by President Chavez to the energy-importing countries of the region, even if it were patterned on a Trinidad and Tobago model, is too good for them to turn down and Mr. Chavez will certainly get some political mileage at some small cost. When you look at his overall oil exports, the cost of subsidizing regional islands is very small.

Our reaction should be, first of all, let us restructure Petrotrin, such that Petrotrin becomes a global and differentiated energy exporter, especially in these days of high price, and we know that at present local consumers just cannot get the premium 98 octane for their very high performance cars, and is that good enough in a country like Trinidad and Tobago? So I think, first of all, we have to take Petrotrin by its bootstraps and do something concrete and real with Petrotrin.

Secondly, I think we have to try to convince the region that the only counter to high energy prices is actually the development of high growth and export-oriented onshore innovative companies. If we look at countries like China, with many parts of them still underdeveloped—China, India and Singapore are not complaining about high oil prices. They have jumped ahead of many of us into high tech, innovative, export-oriented companies and will do very well. So what are we doing? Aid to the region is not economic development. Investment in the region, investment in centres of excellence, in training, business acumen, entrepreneurship, will certainly lead to regional economic development.

I see our role in the CSME in the region is to invest in it, such that our regional economies will develop. Our role is not to give handouts, although they may be necessary in a small part; not to use our earnings to temporarily reduce gasoline prices in the islands, in Jamaica or wherever. I really feel that we, as a country, can get down to regional economic development and I think now is the time, given the resources that we have. I do support the Bill. I see it as an interim measure in greater things to come.

In closing, I trust the Minister will answer some of my queries before today is over, in particular, what we are going to do with our savings to develop a sustainable onshore economy. We must always bear in mind that general

education, secondary and tertiary education—and hope for the best—is not a gateway to economic development. We have to have real research, planning and capital involved and do it in earnest. So my last question: When will we get the complete model for the oil and gas regime?

I thank you very much, Mr. Vice-President. [*Desk thumping*]

**Sen. Carolyn Seepersad-Bachan:** Mr. Vice-President, thank you for the opportunity to make a contribution on this year's Finance Bill, 2005. My colleague, Sen. Wade Mark, dealt with the various areas of this Bill and it is my task this afternoon to deal mainly with the clauses that pertain to the supplemental petroleum tax and other areas, such as the Income Tax (In Aid of Industry) Act, and others that will pertain to the energy sector.

Let me, first of all, say that I was a little alarmed to see—and whereas I know that it is long in coming and we have been talking about the revision of the particular fiscal regime for the sector; I was a little surprised to see this in this particular Bill, because for many years now we have been talking about the revision of this particular regime. But more than that, we have been looking more to getting a comprehensive Bill that would deal with all the issues pertaining to the sector. I say this because anyone who tries to research even these current amendments, in this particular Bill, would recognize the difficulty when you have to touch on so many pieces of legislation. Now is the time, since we are rethinking and reviewing. I still hope that in some way the Government would look at bringing a comprehensive piece of legislation to deal with this particular sector, and repeal all these other pieces of legislation so that we can have a better understanding, and as the Minister said, the need for transparency.

Anyone who tries to invest in the Trinidad and Tobago hydrocarbon sector always faces the problem of having to engage expensive tax consultants, mainly for the purpose of interpretation. There are several times in the Acts themselves that you can elect which option you want to take for the same allowances that the Minister is now trying to discontinue. This is why I advocate this afternoon that there is still the need to look at a comprehensive piece of legislation. More than that, what was also surprising to me is that all of these measures were never discussed in the budget debate, so at no point in time can I relate these measures back to a policy position of the Government.

There are several issues here, not just the discontinuance of allowances, but the whole change of the SPT rates. As a result of that, I thought we would have seen some energy policy that the Government would have formulated and which we now can understand the legislative agenda emanating for the governance of



this particular sector. I still think that is very relevant, because I have had some consultation with various players in the industry and there are several issues that are coming to bear, especially, you would think, just some minor amendments to this piece of legislation.

I tried even to look at these amendments from a policy position. Yes, this is a depletable resource; we have been saying that over and over; it is a depletable natural resource that belongs to the people of Trinidad and Tobago. But then what is the objective in terms of the revision of the legislation to allow for the utilization of this particular resource? Sen. King alluded to a couple of them. For example: How do these amendments impact on the improvement of the quality of life of people? Is it that we want to look at the development as sustainable economic development of the country? How would the measures to this legislation allow the energy sector to play that role? Are we talking about, for example, entrepreneurial activity? How can we boost entrepreneurial activity? Again, these were some of the things that Sen. King was looking at this afternoon.

We have been talking about local investment since 2002 to now. How can we use the energy sector to help us boost local investment; boost local capital in the energy sector; allow for participation of local investors; the development of the service-based industry, the service companies? We knew about two years ago it was brought here several times when the South Chamber made a case about the energy crisis in South Trinidad. It said an economic crisis loomed there, because service companies and small operators were closing down. How are we going to encourage, through this piece of legislation, the proving up of reserves?—a very critical issue that we seem to sidestep every day. In fact, the legislation attempts to work adversely with respect to proving up reserves. How are we going to boost our land production?

Why I single out land production is because land production of oil is the one that will employ more people than offshore production. That is the one that would generate employment. It is land production that generates the demand for service-based industries, which I have heard touted so many times that if we encourage, we can now export to other countries, especially in Latin America. These are some of the things I looked for in terms of the measures proposed today in determining how they will aid in these particular objectives.

I want to remind the Government that in marine operations today, with the sophisticated Supervisory Control and Data Acquisition Systems (SCADA) that we

now have, you are now able to put four and five people on a platform and we are already moving into the arena where we can now have unmanned platforms. So marine operations really would not generate employment; it would be the land-based operations that would generate employment. So at the end of the day, who benefits from these measures? This is the concern I had. I keep hearing about revenue uptake; I heard a figure of \$400 million in terms of an increase in the amount of SPT that would be collected for 2004, but is that the only benefit out of these measures? These are some of the issues I want to speak to as I address the specific measures in the Bill.

One of the biggest issues here—and let me start by saying that these tax reform proposals, for some time now you would recall that in 1992 there was a major revision of the legislation for SPT. At that time, there was a critical need identified for boosting exploration and investment in the sector. As a result of that, the 1992 legislation, the amendment to the Petroleum Taxes Act, was the first that introduced this new schedule for marine and land operations and identified the classes of “A”, “B”, “C” and “D”. I want to deal with this particular schedule because this is what seems to be at the heart of the amendments today. If you look at what has happened, the “A” column is greater than the “B” column; the SPT tax rates, that is, and “A” and “B” relate to marine operations. But “A” is for all operations that were before 1988 and “B” is for all operations after 1988. The reason for that is because prior to 1988 you would have had existing contracts in place—existing E&P licence in place—and you had these rates already prevailing. In order to boost foreign investment in the sector, it was decided: “Well listen, we would devise a new rate structure to attract foreign investors.” This is why the “B” rates came in for marine operations.

Similarly, in the land operations, “C” would be before 1988 and it would have been for those that already existed, and “D” would be for those who are coming in after 1988, and you are now looking to attract them, and this is why their rates are lower. But, you see, we have to take this in the current context. If you look at what has happened today in this schedule, I agree that the rates have all been decreased; in some cases they have gone down to about 2—3 per cent. But if you look between “A” and “D”—let me just take an example. If I go to \$30, to about \$31.50, \$31.51 to \$33 per barrel, I would see for marine operations, I am actually asking for 32 per cent SPT. That is the marine operations “A” class for those prior to 1988. After 1988 for land operations, the other end of the scale, we are talking about 6, 7, 8, 9 per cent SPT.

What has happened here is that although you have reduced the SPT—and I want to come to the allowances just now—across the board, you have reached the

point that this is now 2005 and we are dealing with a lot of depleted acreage—those who are operating E&P licences, and as a result of that there is now need for investment. So, in fact, those that are before 1988 would be on the decline in production and they are the ones that need the boost for investment in order to enhance production. That is the point I wanted to start off with.

If you look at your own state companies, Petrotrin, Trinmar, they are the ones who would be deeply affected by this piece of legislation because they are the ones who have been operating before 1988. In that case you would find that they are the ones who would be hit with a hefty tax bill. Even if you do not want to unify the rates for the marine operations, I think there is need to unify the rates for the land operations. Especially the land acreage that has been operating before 1988, those fields would be in need of capital injection. This is why I am making that point.

I just want to quote some figures here, because you have some of these fields—these are the ones that are affecting local operators—that would have been farmed out to the local operators and it is they who are suffering. This is where we want to boost economic activity. We want to encourage local participation. Unfortunately, nobody is going to give up a lucrative field, so anybody who has just started production on a particular field, is not going to give up that field. It is the old fields that people are going to be giving up. We have to be very careful that we do not encourage people to just leave fields and look for new fields. We want to look for reactivation of a lot of existing fields, because there are many of them all over this country and I think Petrotrin is faced with that problem; several fields that need reactivating. In this particular case, you have reduced the SPT just by 3 per cent, but by removing all the allowances, there is no incentive. In fact, there is a cost now to be able to reactivate those fields. I am saying that one of the things we need to look at is unifying the rates for the “C” and “D”, in particular the land operations.

Let me start off by saying that reserve replacement has not kept abreast with annual production, especially on land. It is something that we have been trying to deal with for years: How do you boost the land production and boost land reserve? As a result of that, your annual rate of production—your daily production—has been declining from 1995 to 2001 at a rate of 7 per cent. I am sure from 2001 to 2005 it has gone down even further. The average number of producing wells on land was about 2,350, which calculates roughly to about eight barrels of oil per day. If we look at the fixed operating expenses and the cut-off rate for wells producing on land, it is approximately five barrels per day.

So, in fact, what you really have from those fields that are producing eight barrels per day—and it is costing them about five barrels per day—the economic profit is just about three barrels per day for those fields. If you look at the listing cost on land operations, inclusive of taxes and interest on loans, et cetera, you are looking at about US \$19 per barrel at an oil price of \$26. I know today we are getting an oil price of \$26. I am using West Texas Intermediate. That would translate into a transfer price of about \$20 a barrel and you would end up with just a net profit of \$1 a barrel.

The point I am making here is that—because I am still not clear on how all the allowances have been—I think you have taken off the small producer allowance, which was about \$20 million before and if you look at what has happened now, we are close to now talking about all these stripper wells which have an average of 10 barrels per day, and we need to boost the production levels of these stripper wells. I imagine this would reduce your SPT; if you try to unify “C” and “D”—some calculations that were done—it would probably reduce your SPT by approximately \$27 million.

I wanted to say this because whereas the SPT in 1999 would have been about 19 or 18 per cent based on prices then, the current oil prices today would probably put you into the range of about 25—27 per cent of SPT. Therefore, I make the point that some of the allowances that we are talking about would put us into a situation where you would not encourage the reactivation of old fields and the boosting of production on land nor the proving up of reserves. In fact, the South Chamber of commerce has been making a very important point that if you go back to look at the fiscal year 2004, you would end up in a situation where those who have made capital investment allowances, let us say, for enhanced recovery, would end up with a tax bill to pay, whereas those who made no investments would end up with a tax rebate.

In fact, what has happened here is that you have given these people the incentive to say: “I do not want to invest and I can continue doing what I am doing the way I am doing it because I will come out on the positive end.” I am sure the Minister can bear me out on this. I am sure that if you go back and check you would see that all the people that you would get that extra SPT from would be those who made investments. Those who have made the investment will pay SPT and those who have made no investment you would have a rebate for them for 2004. That is something I wondered if he can shed some light on and tell us how much rebate there would be and what would be the extra SPT collected for those

who have not made any investments on land operations. I would be really interested to see those figures.

I want to start with the condensate on the line. I heard the Minister saying this, and I just want to make a quick point about the condensate on the line. I understand the condensate is defined as petroleum; this is why you want to deal with it here. But a lot of condensate comes off from natural gas lines. What happens when the operator and the producer are not one and the same? How are you going to determine from which producer you got this particular condensate? Because condensate is something that takes place during transportation. So if you have condensate being formed during transportation, which producer would you charge this SPT to?

I am just asking the question if the Minister could answer. In most cases, the producer himself was never paid by the operator or the transporter for that condensate, so who is going to pay that? Is it the operator of the transportation who has to pay the SPT? I would imagine that something like this would have to be resolved and it cannot be done in some arbitrary manner. In this particular case, what would be the mechanism used to determine who has to pay the SPT on that particular condensate? Because in most cases now we do not have the transporter and the producer as one and the same. What about the production-sharing contracts where they have been exempt from any taxation? If you deem that that particular producer who is bound by a PSC is the one to whom the condensate belongs, how are you going to charge him if he is exempt from the SPT?

I wanted to raise that point quickly. There were several amendments to this Act. Let me just start by saying that over the years I know that there have been several changes to the allowances. There is one in particular, I still do not understand what has really taken place with the Income Tax (In Aid of Industry) Act, because it appears to me that when you are removing one of the clauses—and I suppose we can deal with it at committee stage—there is a section where you are deleting section 17A. What I think you are trying to say is, you do not want to give the initial allowances anymore; you want to remove all the initial allowances, therefore, you want to use just a straight line basis over a five-year period of 20 per cent. But I am not sure if what you are removing—because I think at one point in time in one of the amendments in the years after, you actually amended that and called that section 16B. So I am not sure when you delete section 16B, if you are, in fact, deleting the initial allowance.

If you look at subsection (2) of section 14, you will see that you still have there December 31, 2002. I feel that what it should be is December 2003, since you are now making the retroactive date to January 01, 2004. But when we get to committee stage I want to pick that up because I think there is also a section 16(2) where you had an initial allowance and then you would sometimes be allowed another initial allowance, then you would have ended up really paying 12 per cent of the capital expenditure over the five years. That is some cleaning up that needs to be done.

Coming back to the production-sharing contracts, the Minister indicated that these contracts would be part of—and you would be looking towards SPT, but then there are production-sharing contracts that are indemnified by the Minister of Energy and Energy Industries for any taxes in respect thereon and no additional benefit would be derived by the Government of Trinidad and Tobago. There is really no benefit to be derived, because all that would happen is that you would be saying: “Okay, I now give you a tax certificate for SPT, and you would apply that against the Government share.

In fact, if there is really no net benefit to the Government in terms of applying SPT to this particular production-sharing contract—and I could think of one, BHP, for example—if there is really no benefit—and I would imagine that this is one of the contracts that would have been indemnified by the Minister of Energy and Energy Industries—and the taxes themselves would be applied to the Government share, why is there this need to include it? All you are really doing is that the SPT would become a deductible in the multinational’s home country, for example, wherever they are filing their accounts, and the PPT, et cetera, would become just a credit for them.

### **3.50 p.m.**

I am not sure. It is just for them to say that they have paid these taxes but it is taxes paid out of the Government’s share. It is just from one hand to the next. I am not sure about the objective unless you want to restrict it to those petroleum sharing contracts (PSCs) that are not indemnified by the Minister of Energy and Energy Industries. The Minister corrects me and says that he did say that it would only apply to the PSCs that are not indemnified. When we get to committee stage I would like to look at the wording to ask if it is doing this.

We have to look at the double tax treaties which the Government of Trinidad and Tobago has entered. It is only Caricom, France, Sweden and Venezuela treaties that specifically provide for credit on supplementary petroleum tax (SPT). It will not be a credit. In this regard, I am not sure about the domestic laws of each

of the other jurisdictions. We need to examine them in order to determine that.

The other point deals with the decommissioning and cost allowed when expense is incurred. Mr. Minister, you may correct me. My understanding is that when you were looking at the decommissioning cost—according to GAP it is law—there is the asset retirement obligation for multinational companies that operate with the oilfields, when we are talking about abandonment of offshore platforms. When we are looking at decommissioning and abandonment, a provision must be made every year. As a result of that it was being allowed for tax purposes. Some companies were applying for it. When the asset retirement obligation is applied for decommissioning and abandonment, that provision was being filed as part of your tax return. The producer was getting that benefit. I know that apparently, the State companies were not doing it although they were making provisions for it in their accounts in accordance with the law. They would add it back to their income line so that the SPT charge would not have included provision for decommissioning.

It is important for us to recognize that this is an environment liability that has plagued the world. That is why the standard SFAS143 was introduced to ensure that provisions are made. If you allow the abandonment and decommissioning cost incurred to be applied only in the year of abandonment that would be the last year of production. Usually, the last year of production is the lowest. Obviously, you would not have sufficient income to cover the abandonment cost.

I know that you will allow for the reopening of returns of the previous years to address the situation, so they can apply this decommissioning. Is there a time frame? For how many years would they be able to go back? This is what I am interested in hearing. I know that the South Chamber had a vested interest in looking at the decommissioning cost especially for land operation. As we look around this country we would see the impact of abandonment and decommissioning and the environmental liability it has created. We have to bear in mind that once many of these people are strapped for cash they will not put the necessary measures in place or plan for the abandonment. Is it possible that the alternative is to apply for an escrow account? I know that that was one recommendation for this piece of legislation. Was that explored? What was the result and why did you choose this particular route?

I do not have a problem with the management charges to be redefined, capped and increased to 2 per cent. I am not sure. There has been so much and the interpretation has always been a problem. [*Interruption*] It is about five years. I know that management charges were always subject to much interpretation about

what was allowed. I know there would have been some rambling between the Board of Inland Revenue (BIR) and the companies. I see that what has captured the 2 per cent includes much research and development. Did consultation take place with the multinational companies in terms of research, development and other technical support? How will it impact? We do not want a negative. I support this because I know that management charges can go out of hand. I feel that you need to boost local content. One of the ways to do that is to train local expertise to handle these situations and use local capacity. I have a little problem when it comes to research and development; the technical support which will not be available in Trinidad and Tobago and what will be the impact where this is concerned.

The other issue I raise is about estimating. We know that the SPT can be done on a quarterly basis but the petroleum profits tax is still an annual tax. It means that you will still ask for some estimation of the annual expenses; apply it on a quarterly basis and prorate it across the year. What happens when you are not sure? This is one issue we had all the time. How good is this estimating that ends up with the deferral of taxes? Will it end up with a deferral of the petroleum profits tax? How exact has that become in doing your estimation closer to the end of the year? I am told that you get accurate about mid-year and for the last two quarters the final figures can be more in line. At the end of the year you net off completely.

I noticed that with the Income Tax (In Aid of Industry) Act there will be the removal of the ability of the leasee to claim initial allowance on all these assets. A number of financial arrangements have been entered into on this basis for this incentive. All these arrangements would have to be revisited and may have to be abandoned at significant expense to the taxpayer. I look forward to hearing the Minister's comments on if any discussions have taken place with respect to this particular measure.

We must remember that many times when we ask for legislation, it is to go forward. I have a problem with the retroactivity of this piece of legislation. Let us not confuse legislation with enforcement of the laws. When we talked about shortfall and the Government is not getting its take, you need proper monitoring and auditing of the sector to ensure that you do not have a shortfall in production levels. Several multinational companies have been charged for overstating and understating their reserve positions. We have to be careful with that. Only through proper monitoring and auditing of the sector we can ensure that the taxpayer is getting his fair share of the economic rent for that particular resource. I do not



necessarily hear when you talk about going on a quarterly basis for the petroleum profits tax and you are not estimating or monitoring and you do not know your production levels.

I raise that point because making legislation retroactive is a bad signal to send to the international community. Some are saying that they agree but when you consult across the board you would hear the local operators say that they were not consulted. There are objections by the South Chamber of Commerce. Several companies have made investments and they have a tax bill to pay. We have to be careful with the signals we send to the international community. One of the things that Trinidad and Tobago is known for is the favourable investment climate for direct foreign investment. This is what separates a country like Venezuela from Trinidad and Tobago. You could have gotten about 60 to 70 cents more for gas in Trinidad and Tobago than Venezuela because of the uncertainty in the environment of Venezuela. Trinidad and Tobago was always known for its stable business environment. That is very important. You do not want to send a signal that we are becoming a Chavez country because that is what it is known for. This is why we have been able to attract several projects with a higher gas price than we had from Venezuela. We have been able to pull away projects from Venezuela on that same basis. Because of the stable political business environment there are no uncertainties.

The signal you have to be careful about is that any time there is the view that any time you feel there is an error in your legislation, you can go back and make it retroactive, investors will start factoring that uncertainty. In their risk analysis they will put a cost for that. Instead of bidding \$1 for gas they will bid at 90 cents. They will put in 10 cents more for uncertainty. There seems to be much objection on the other side. These are important points. The inefficiency and tardiness of Government to bring legislation to Parliament cannot compensate. The extra dollars that we may earn will cost us in the future because of the image of the country. I am not sure if you should be making this retroactive to January 2004, unless you can communicate properly and let it be known that all agreed and we were in negotiation from January 2004. The international investors must understand that. There is a right way to do things. We are talking about 2020 and we need to be more efficient in what we are doing. We cannot take two and three years to bring legislation and because of your tardiness you want to make it retroactive. *[Interruption]* I will come to that. Do not ever feel that you will ever intimidate me with that.

To round off the land operation we need to look at the enhanced recovery allowances and the other allowances for capital injection to reactivate old wells. If not, we would end up with a worse situation. One of the things that we kept clamouring for in Parliament was measures to boost legislation. It will not boost land production; it would discourage land production. How will it be addressed? Will it be addressed in Phase II? I cannot understand how.

You have removed all the allowances for heavy oil. It is not a matter of removing allowances and getting a higher take. We have to understand if we are still competitive in the business of Trinidad and Tobago. One of the things that you should try to do in your legislation is to provide investment incentives to allow for local land production.

Sen. King asked how we will use the big oil to boost the local oil or the small oil. This is how we have to do it so we can encourage more entrepreneurial activity. We can encourage more people to invest in land production. Nowhere in this Bill is there an incentive that shows me you will tell a local producer to invest. Probably, the Minister can enlighten me as to how that would happen with the measures provided here. It is not that we want to give more incentives to foreign producers; we have enough incentives for them. We need incentives for the local producers in land operation.

Let me come to marine operations. You said that you were in discussion with various companies. When I had first seen the advertisement for the Teak, Samaan and Poui assets of bpTT, I wondered why these three fields were going up for lease. There was some talk that they would have been selling at \$8 to \$12 a barrel. The production rate as quoted in one of the articles by bpTT was about 21,000 barrels of oil per day. They were looking at 14 platforms and E&P licences, but they were not giving up their deep exploration rights. Technology, research and development are going on in deep water exploration and they are hoping that if ever they have to recover, they will still have that right.

Look at what we have led ourselves into. You now have a local company, Neal & Massy Energy that has bought out these assets in collaboration with Repsol. There has been a natural decline of that particular field. When I was looking at the data of that field it was almost 30 per cent per year which is very high. I was wondering why anyone would want to get into that particular field at such a high rate. It means that the bottom hole pressure had declined considerably and it was relatively high. They would be looking at a very high secondary mechanism such as gas injection or the water flood to lift oil out of the ground. Much of the gas injection and the water flood in particular are being used by Petrotrin in many of their offshore operations.

By taking away these incentives, Petrotrin and Trinmar, the local operations would have hefty tax bills. I imagine that the SPT from the local state companies would increase by about 40 to 50 per cent. If they were paying \$1 billion before in SPT they will now have to pay about \$1.5 billion. It would be more costly and frequently for these operators to perform work-over techniques.

I also noticed that NGC said that they will continue with their gas compression techniques. There are environmental liabilities with that particular field. You are talking about over 14 platforms and the cost of abandonment. This company will be looking at how they would use decommissioning and abandonment which would only be allowed in the last year. Many of the existing E&P licence operators will get rid of all those fields that have matured and probably pass them off because you have gotten rid of all the allowances for secondary recovery and capital injection. Regardless of what the Government says it would end up in a situation where many of the mature—

**Mr. Vice-President:** Hon. Senators, the speaking time of the Senator has expired.

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

*Question put and agreed to.*

**Sen. C. Seepersad-Bachan:** Thank you, Mr. Vice-President. As soon as these fields mature many of the offshore operations will be given up; they might be sold. Only local investors may have to invest because no multinational will look at a mature field. You have to look at the relationship between Repsol and BPAMOCO. Much has been said about the incentive to allow for land operations. Much of the land operations relate to Petrotrin and Petrotrin has to depend on many of the smaller operators. They would be able to provide for Petrotrin to continue the refining business.

As I am on the refinery business, PPT as applied to the refinery margin is a very small margin. It is only in times of high oil prices you would find that the refined products would fetch high prices. When the prices come down they tend to be squeezed and not be economic. I was wondering at this point in time, given the implications of PetroCaribe—the discussions have started. We have to understand that Petrotrin may no longer have access to the regional market. Definitely, if they now must look at the extra-regional markets, they have to move on to look at capital investments in terms of reconfiguring the refinery to service an international market. That is not an easy task because Petrotrin's refinery is

*Finance Bill*

[SEN. SEEPERSAD-BACHAN]

very old and we are dealing with many old processes.

What are we going to do in terms of Petrotrin? How will you reconfigure that refinery to meet international obligations? I want to find out from the Minister if there is any hope that they would be looking for another partner for Petrotrin. That needs to be looked at now. Have a joint venture partner that may have access to markets for the refinery operation—not for Petrotrin—that will bring markets to Petrotrin. If the regional market exists for Petrotrin it will be for a very short period of time. During that period of time I suggest that we look at the possibility of a joint venture partner for Petrotrin.

It is clear that with the implications of PetroCaribe, Petrotrin would no longer be able to sustain that premium market. As I indicated to the Senate last Wednesday, without PetroCaribe, Petrotrin was able to access something like US Gulf Coast plus for their refined products in the regional market, whereas outside the regional market they would get US Gulf Coast minus. The prices on the international market are not as lucrative as they were in the regional market.

With the whole issue of PetroCaribe, what has happened with the issue of the cross border discussions, the unitization of that cross border between Venezuela and Trinidad and Tobago for the development of that field? I am sure that those discussions have been put at risk in terms of the development of that particular field.

I could not understand how the Prime Minister could have gone to wherever and not recognized—whenever these discussions take place and an agreement is about to be signed, a ton of paper is exchanged between two countries. I can never understand how the Prime Minister and the Minister of Energy and Energy Industries could have ended up in a discussion like that without seeing the preliminary study documents. As a result of that we will pay the price. The price is that we have put the refinery at risk. Now that we have put the refinery at risk we have to take some hard decisions about the Petrotrin refinery. One of them is: Should you sell part of the Petrotrin refinery to a partner who could bring markets for Petrotrin?

I heard them talking about Trains 2, 3 and 4. Part of your energy policy should have been how the benefits will redound to the citizens of this country. I heard them talk about the gas price. I want to tell Sen. King that what happens in the negotiation is that you build a financial model. You look at all the benefits and quantify them so that you can determine at what price you want to sell your gas. If you are getting bursaries; the construction of a university or contributions to the University of Trinidad and Tobago, these are factored into the model.

One thing the UNC government was able to achieve in Trains 1, 2 and 3 was the renegotiation of several contracts between the producers and NGC. That was one reason that today the NGC can show over \$1 billion in profit. They were able to get the prices reduced from all those contracts that existed between NGC and the producers. As I indicated in the Senate two weeks ago, another benefit that the United National Congress government was able to achieve was the negotiation of a tranche of gas at a fixed cost to supply T&TEC. This is how we redound to the benefit of the people of Trinidad and Tobago. That is why we have not had any increases over the last couple years. During the negotiations of Train 4 they got a free tranche of gas. What did they do with it? Did they give that free tranche of gas to the aluminium smelter or should they not have given it to T&TEC so that benefit would have gone to the people of Trinidad and Tobago? That is the difference in policy.

**Sen. Dr. Saith:** Is it also that in getting the tranche of gas for T&TEC which you claimed you got, you extended the contract with BP to take them to 2017 at the current royalty rate?

**Sen. C. Seepersad-Bachan:** No.

**Sen. Dr. Saith:** Yes. Yes you did. You did not get any benefit for Trinidad and Tobago. In fact, you gave away a benefit. The contract was going to end in 2005. We would have been out of that contract today. You extended it to 2017 and left it at the same royalty.

**Sen. C. Seepersad-Bachan:** It is my understanding that at the time when they negotiated Trains 1, 2 and 3, in the case of Train 1 because of the life of the plant they had to extend the licence to produce gas for the plant. When the current licence comes to an end a new licence will start with a new royalty rate. I have stated this in the Senate.

**Sen. Dr. Saith:** That is not true. The current licence would have come to an end now. In Trains 1, 2 and 3 you signed contracts where you fixed the price at which the gas was going to be exported regardless of the market price. Right now we are getting tax on a fixed price although the price abroad is four or five times. It is only in Train 4 that this Government negotiated a contract which says back out your shipping; back out your gas; back out your processing and it goes back to the well head and you pay tax at the well head. Right now, with Trains 1, 2 and 3 the country is not benefiting from the high gas prices because of the contract that was signed by the UNC government.

**Sen. C. Seepersad-Bachan:** I said this during the budget debate last year. You cannot talk about netback pricing. The contracts are based on netback pricing. It may be fixed for the Spanish market, but if you are selling into the US market you cannot use pricing for the Spanish market. That is what the Minister of Energy and Energy Industries indicated.

If you are fetching a price in the Spanish market for your gas, of course, you have to use that price for your netback pricing formula. But you cannot be selling it into the US market and telling me that you are using a final price at the Spanish market.

**4.20 p.m.**

Mr. Vice-President, could I get some more time to finish? [*Crosstalk*] I just have two or three minutes I want to wind up quickly. [*Crosstalk*] No, you bring it up and I will answer you when you go to speak. I have given a lot of time but none of them on that side have ever given me any time. [*Crosstalk*]

Mr. Vice-President, you keep hearing all those things and I hope one of these days they would bring the Train 4 Agreement in the open and would tell us what gas price they got.

I will now address the gasoline, the domestic fuel market. They have been coming to this Senate to get allocations in the Supplemental and Appropriation Bills to cover the cost for subsidy for gasoline in the domestic market. I looked at it today and in the revenue estimates for 9/2005, a point that I have been making is that excise duty on fuel alone is almost \$629 million. Mr. Vice-President, with \$629 million you would need to back this out and you would see that you would not have to be coming to this Parliament seeking more subsidies. Just to answer Danny Montano from the last time when he said: "Why did we not change it?"

**Mr. Vice-President:** Sen. Danny Montano.

**Sen. C. Seepersad-Bachan:** Sen. Danny Montano when he said: "Why did we not make the changes in our time?" Let me say that we did not have high oil prices then. Today we are having high oil prices. In fact, we had \$12 a barrel then and normally what you would find is that during what would be called the winter months there would be high prices and during the summer months there would be low oil prices. In one half of the year you would be in a surplus position and in the other half of the year you would be in a subsidy position and used to equalize off. If you look at the past figures you would see that the subsidy for one year and the surplus for one year were almost equal. What used to happen was that the company, NP could have exchanged a cheque with the Government; you give me back this and I give you back that. In the current scenario, however, we have

sustained high oil prices and that will also put us into the subsidy position.

They talked about the Dollar for Dollar Plan but part of the Dollar for Dollar Plan was based on having a 40 per cent from the additional revenue from the oil and gas sector and 60 per cent would go to the Revenue Stabilization Fund. I would have imagined that the Dollar for Dollar could have continued to be used to allow for a 50 per cent reduction in the cost of education across the board. That was the purpose of the Dollar for Dollar Plan. If you want to put in another fund called, GATE, no problem, and you want to use your Means Test to determine those who cannot pay that other 50 per cent, fine! What happens is that you are now saying that by moving that, I am not sure how you would apply that Means Test, and with how much money. All of the money the UNC government provided to that particular fund is what they are now taking and using as a Means Test. I wanted to ask that particular question.

Furthermore, let me quickly say what has happened to the extra revenue. I note here again from the estimates—I raised this in the budget debate—that you had almost increased your revenue estimate from the oil and gas sector by \$2 billion. You came last week and you said that you wanted to increase your expenditure level by a further \$3 billion. You are still saying that you are in a surplus position. Is it that you are saying that this is what you want to collect the taxes to do? I feel that you need to tell the nation where you are getting this extra \$3 billion. What is the source of this extra \$3 billion in expenditure?

I end by saying that getting these extra dollars would not adequately compensate you for the international image of your country in terms of investor-friendly find.

I thank you, Mr. Vice-President.

**Mr. Vice-President:** Hon. Senators, it is 4.25 p.m. and we shall take the tea break now. When we return at 5.00 p.m. we shall resume the debate.

**4.25 p.m.:** *Sitting suspended.*

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

**Sen. Prof. Kenneth Ramchand:** Thank you, Mr. Vice-President, for the opportunity to make a brief contribution before I leave. I am not going to say anything about most of the Bill, since most of the Bill is formalizing, at the last minute as usual, matters discussed and approved in the last budget debate. I would like to make some non-technical comments on changes to the Petroleum Taxes Act since these changes point to the future tax regime. I take the opportunity, like

[SEN. PROF. RAMCHAND]

Sen. Mary King, to make some suggestions about what might influence the shaping of the new regime. Before I make those suggestions I would have to offer a few comments on what is new in the Bill.

The hon. Minister said that the intention was to correct anomalies and shortcomings to ensure that the legislation was less ambiguous, more transparent and easier to administer. I would like to add, because I am sure it is one of his aims, to increase our take from the current high prices of the oil.

I believe what we have seen here today will bring about some success. He has estimated that we would increase our take by about \$400 million. I only hope that in the second phase of the oil taxation regime we do not give back too much of what we have captured in the first.

The supplementary petroleum tax (SPT) regime looks more efficient and more flexible. Mr. Vice-President, I highlight and commend the separation of oil and gas. I think that has caused us to lose too much and I look forward to a separate natural gas regime, since all over the world the gas-producing countries do not really know what to charge for their gas. I do not mean the companies that are investing but the countries themselves. The countries are at the mercy of what the investor works out, is a price that suits them. The countries cannot get up and say: "Look, we gas-producing countries are not going to let you have gas unless we do so and so". I do look forward to some kind of powerful organization of gas-producing countries, which would be an international force to deal with the multi-national corporations which are the investors in the whole situation.

I commend the questions, suggestions and revelations from Sen. Mary King because I think these would help us in working out some of the details of the new regime.

I hope the Minister will help me out with the management. New section 17(A) is an insertion after 17:

"...where a person carrying on any of the separate businesses makes any payment in respect of management charges to a person not resident in Trinidad and Tobago, there should be allowed to that person a deduction of an amount equal to the sum of such payments for the financial year or it be limited to two percent of outgoings and expenses allowed under that section...of that business..."

I am not too happy with that grant of the management charges to head office or to people resident overseas. They are getting all their allowances, discounts and so on. They are bringing people here who are benefiting from our low cost of living,



putting up our housing expenses and so on. If they want to bring an expert or they need expert advice, let the experts come here and pay. I do not feel that really merits an allowance but I will leave it to the Minister. I am sure there is a good explanation for it and I would like to hear the explanation.

I support Sen. Mary King in connection with the small holders in the industry. I have read a document from them which suggests that they feel they are being hard done by economically and they make a point which I find interesting. They have said that they are a reservoir for technical people in the area of energy services and if they were not allowed to survive and expand, then that would be a valuable loss to Trinidad and Tobago. I would like to hear the Minister's response to that document.

I agree—and I am more serious about Sen. King, she is probably a bit wiser than me in the ways of the world—with her suggestion that less investment at this stage in our diminishing resources might be a good thing for our country. I hope to say more about that in another debate. I take it as an axiom in our present situation, that less investment at this stage might be a good thing for the country because it would avoid over-exploitation of resources that we really want to stretch out.

This is based upon a common understanding—which we sometimes lose sight of—that an investor is not a philanthropist. An investor does not come here for your benefit. An investor comes here for his benefit but he knows that there must be partnership and cooperation. He cannot come and just take and grab. There was a time when that was done but birds of passage nowadays have to sit and negotiate with us. I think that in the new regime we have to do some serious negotiations and come up with definite plans and perspectives. The first one, of course, is that whatever we do we must have a greater share of the profits.

I think somehow the new regime, whatever the details of the taxes, allowances and discounts, those details must be informed by certain considerations like: greater technical partnership, the provision to develop skills and capacities at the highest levels so that when the bird of passage flies away; when the parasite leaves the host, we have a cadre of highly skilled technical people who could take over the industry, even in terms of further exploration. [*Desk thumping*] Most countries are at the mercy of the foreign investor because they do not spend their own money or get investors to spend money on succession planning in that sense. I feel that succession planning must be a very important influencing factor in the development of the regime.

It is obvious that there is a conflict of interest between a country, which wishes to preserve its assets, distribute its benefits and develop its people, and the attitude of an investor who, with all the goodwill in the world, is really here to make a profit and the negotiations must be coloured by that. I think the negotiations must be coloured by provision for what happens when the natural resources are depleted.

What do we do with abandoned fields? What do we do with areas that are no longer producing gas, and those that are not being used to produce gas? What would we be able to use them for? Would we put restrictions on the way they are used that would make it possible for them to be used in different ways when the time comes?

The workers who are being trained to work in these industries: What kind of training are we giving them? I am not happy about the kind of training we give to our workers. The programmes are too short. If we are training people to work in specific industries and areas, they must be given training that is larger than, or more extensive than, that would take longer to achieve than what is required for that particular industry.

There is a by-product of saying that you would be trained for two years. You are taking many young people out of the employment lines and giving them two-year training courses, which they might well feel is not a crash course to do something for now, and you leave them with anxiety that when this job is finished: What can I do with what I have been trained to do? I think we have to take a serious look at the training of persons who work in these industries. Also, we should not restrict the training to short periods and to very specific items to serve those particular industries.

I feel that we really have to take, seriously, the point Sen. Mary King made about depletion cost. I am in favour of some kind of depletion tax or some kind of demand that the investor contribute a certain percentage towards a fund that we would designate for reinvestment in the country. It does not have to be in that industry, but we charge them a depletion or reinvestment tax, which we can put there and match and when the crises comes we would have that money. In fact, we do not have to wait for the crises; we could develop the south-west peninsula from some of the reinvestment tax or the depletion tax.

I think the measures produced by the Minister are likely to succeed. I take him at his word that this is just phase one. I look forward to a regime that would be informed, not just by the need to get a bigger share of the profit, but informed by, what I call, developmental and succession considerations.

Thank you, Mr. Vice-President.

**Sen. Basharat Ali:** Mr. Vice-President, when I was preparing my notes for this sitting of Parliament, I wrote about an omnibus bill, which is what I call this Finance Bill and, you, Sir, as a pedagogue will know that an omnibus is a formal name for a bus. The PTSC now has “articulated buses”, and by definition an articulated bus is one with two or more sections connected by flexible joints. I thought that was an analogous situation to this 17 part Bill which the hon. Minister presented to us today.

I thought he was derailed earlier on because I did have one question which has been partially answered: If one section of this bus did not pass here, what were you going to do with it? When I got down to specifics the one I thought about was National Lotteries. Suppose this Senate agreed that we did not want the amendments to go for National Lotteries, what were we going to do? I think we have got the answer now—which we could do again here—that when we get into committee stage we just strike it out. I was going to ask what would happen if such an event occurred. But that was when I was preparing to speak on the National Lotteries (Amdt.) Bill. Unfortunately, that is not what I am going to do today, so I have to get back to my own field of petroleum taxation. I was going to have a busman's holiday, listening to everybody else instead.

Having prepared my documentation on the National Lotteries (Amdt.) Bill, I started off by saying that I propose to address amendments to the Petroleum Taxation Bill, by exception. I thought I would have been quite short when I did so, because there are a lot of things with which I agree in the Petroleum Taxes (Amdt.) Bill that is before us.

I will like to declare that I did have some discussions on these proposals with Dr. Jim Lee Young who, as you know and as we know, is the President of the South Chamber, and who is also now involved in the setting up of the new entity called TDN, which would really replace Venture Petroleum PLC. This is, I believe, a very important step that is being taken here because there is Venture Petroleum PLC which is now divesting a good part of its share—they are still going to have, I believe, about 30 per cent or something like that—and the rest is really going to be local content. The principals would be Dr. Lee Young, Bruce Dingwall, who is also associated with Venture Petroleum, new partners Guardian Holdings and some others.

I was quite pleased with this kind of composition and I must say here today that we need to have this kind of organization: a strong joint venture, a good percentage, and with some very capable persons.

I have known Dr. Jim Lee Young for a long time. My notes here say he used to visit my home in short pants. It is not the short pants man that used to visit elsewhere. [*Laughter*] In fact, he was a schoolboy at the time and he was from Point Fortin. I followed his career right through until he came back to Trinidad at Venture Petroleum. He is a very bright young man and a very ambitious young man.

I would say that at times he is a little too outspoken, especially when he is dealing with politicians. I know that has happened to him. When he starts to speak on reserves and he might have a clash with other people of like discipline, he says it as he thinks it is. That is his field; I think he has his doctorate in reservoir engineering.

I think it is necessary to encourage persons like him to come back. They want to make a contribution to what we all refer to as the commanding heights of the economy. He and his colleagues like Dingwall deserve that chance to demonstrate what true local content is all about. True local content is not itsy-bitsy joint venture to build something, to construct a pipeline or some other activity like that and you do not see what you are really getting out of it. Here we are with intellectual knowledge coming in to work in TDN—10-degrees North—and I wish them all the very best of luck in setting up and in making a positive contribution to this country, if we give them the chance.

The Bill before us appears to me to have two major objectives; I believe I heard that in Minister Enill's presentation. One of the objectives is to clean up and to simplify the Petroleum Taxes Act with respect to crude oil. The second objective was to maximize revenues to the State without being a disincentive to investors, both foreign and local. Those are what I read in looking at the proposed amendments.

Let me give a little background to local upstream investors. On the whole they are characterized by their independence and by their smallness—remember small is beautiful too. Speaking for themselves and not for Petrotrin, they tell me that they speak for themselves and not for Petrotrin which is classified in a big league—they are dismayed by the proposals being brought to Parliament with respect to PPT and SPT. In a sense, I have to share their concerns. Local independents are characterized by low production rates from mature fields. Let me give an example: crude oil production figures for the month of February, 2005, in barrels per day; this is taken from the Ministry of Energy and Energy Industries' monthly bulletin, which is online.

Primera, which is, in fact, the old Premier Consolidated Oilfields, an English company, now 100 per cent owned by CL Financia: 441 barrels per day. Moraven, a little local company, Persad and Associates an offshore company: 288 barrels per day. Venture Petroleum Trinidad Limited (VPTL): 937 barrels per day. Petrotrin Farm Out, that is an important group of people: 982 barrels per day. I have separated them from Petrotrin Lease Out: 4,000 barrels per day. Trintomar's adventure into the east coast where we suffered some serious losses but I believe the figure that we see in the Bulletin is really to say that Trintomar still belongs to us, the people, and it gets royalty of 589 barrels per day, that is what I am made to understand.

If we compare these numbers with the main producers, bpTT: 43,000 barrels per day and that is from an all-time high of 200,000 or thereabout. I will come back to that bpTT. BHP Billiton, in February, was 30,000 barrels per day. I am aware that in March, because I mentioned that figure in my appropriation budget contribution, that this figure was 50,000 and, as I said, they would be the only substantial oil producer with a production-sharing contract. As I said earlier, we should treat it as a model pilot contract and learn from it. Petrotrin Land: 19,400, Trinmar, which is south-west offshore: 32,900. EOG Resources, which is part of what was the original block where Trintomar is, they are 5,581. So Petrotrin's production excluding the farm-out and lease-out is 52,890 barrels per day.

#### **5.25 .p.m.**

Petrotrin, in fact, is the largest producer of crude oil in Trinidad and Tobago today, so they are in the big league. In speaking of supplemental petroleum taxes I will leave Petrotrin out and just look at the others. I think Minister Sahadeo has to deal with Petrotrin and she would inform them whether they should pay the tax or not. I cannot put in a plug for them because I am not in a position to do so at the moment.

Elimination of allowances for SPT calculation strikes a big blow for these small producers and as pointed out, and I think, the hon. Minister in the other place and today, also listed them very nicely, so I did not have to copy them. Geological and geophysical allowances, 50 per cent gone; exploration, 100 per cent gone; investment allowance, 40 per cent gone; heavy oil, 100 per cent gone. In other words, we do not want to encourage any marine thermal recovery which is heavy oil, and heavy oil is oil being under 18 API gravity. Enhanced oil recovery—this is secondary or tertiary oil recovery, also 100 per cent allowance gone; field discount, 20 per cent and production discount, 20 per cent. So the only allowance now left for the calculation of SPT is the royalty. That is the only item to be discounted in arriving at those figures.

I am not in a position to do all the arithmetic but looking at these numbers, bearing in mind, we are looking primarily at small producers, bearing in mind that if you put them employees/per barrels of well production, they are the highest employers. I am sure, Minister Dr. Saith will agree with me that is a key element of the South base of services. They are oilfield-services based. Most of them come from the Petrotrin lease-out/farm-out arrangements. When you take these allowances away from them I believe you are hurting them. When they told me that they are hurting from it, I tended to be very sympathetic towards them. I remember that in the first oil boom, and I am not talking about here, I am talking about in the United States when that came around and crude oil prices were high and US production was tending to go down and down, they brought in two regimes. One of windfall tax so that people would spend money to drill for additional production and old oil and new oil were taxed differently. Old oil remained at the old price and new oil was allowed to float with the market but then there were additional windfall tax profits. The other part of it was the opening up of stripper wells; those that were shut in and they were encouraging them to reopen those wells and, in fact, in the long run we found that a good proportion of US domestic oil came from stripper wells because they had the incentives to do it.

I believe we must look at these things and I feel we should not close the door on these people because we will still need to have them one day—we want them to stay here; these small people—very often they can get out—also contribute to the knowledge-base of the industry and are able to earn a good living in the process.

The high oil prices we are witnessing today do not solve the problem for these low volume high-cost producers. It gives them the impression that the Government is only concerned with retaining the interest of the foreign producers. We have heard that before. That may not be so, but that is the impression that is being given. While on the subject of petroleum pricing I would wish a response from the hon. Minister, whether a permanent petroleum pricing committee under item 6A of the Second Schedule of the Petroleum Taxes Act is in place, and if it is not, why not? I think it is an important pricing committee of public officers; the Ministry of Finance, the Ministry of Energy and Energy Industries and the Board of Inland Revenue. That is a committee which should be tracking price and having discussions with persons who do not agree with them; they are the people who will advise the Ministers on matters relating to the pricing of oil. It is all there in the Act, and that is why I asked the question. I have asked the question before but I did not get a reply.

It is very nice to say that SPT would now apply to production-sharing contractors except those whose contracts explicitly exclude SPT. My view is that this is purely an academic exercise. SPT, that comes out of the Minister's share after cost oil. So it has no additional cost effect to the contractor under production-sharing and he benefits because the Minister of Energy and Energy Industries in turn has to give him a certificate to say he has paid so much SPT. In other words, part of the Minister's share is going towards the satisfaction of SPT. It has to be transferred to the Treasury but that is not the concern of the contractor. So at the end of the day, anybody with a production-sharing contract could be quite happy because he does not have to pay anything else and he is getting a certificate which, in the case of royalty and SPT probably, he can say this is tax deductible in his country of origin.

In the case of the Petroleum Profits Tax, that is normally treated as revenue under the Inland Revenue Department so they can claim a tax credit, because I think we still have a double tax arrangement with the US. All of these things are to the benefit of a production-sharing contractor and while it is nice to say it is there in the law I do not really see here—I have not seen anybody acknowledge that, whether it is Minister Enill or Minister Williams who brought a nice treatise in his contribution last Friday in the other place. But no mention was ever made that there is no money involved there. Having or not having an SPT is not hurting a production-sharing contractor, and that is my view.

I have one question in respect of that and, that is, when the Minister has to issue all of these certificates for royalties, petroleum profits tax, SPT impost, running royalties where it applies, bonuses, unemployment levy, production levy, all of those are items in what I have seen covered in a model production-sharing contract. I have to presume that is what they are like now.

I would like the hon. Minister to put me right if my assertions are not correct about what happens when he issues all of these certificates and he has no money, if he has given certificates which are more than his share? He could be in that position because the value due under these various elements of taxation royalties and so forth, could easily be over the amount of crude oil he received in his share because the share, as you know cost oil is the first thing which is satisfied from the production to the extent possible in one year. The second thing is the division where the contractor gets X and the Minister gets the other part. It is possible that his share does not cover all these certificates he has to issue. If I am correct, in asking if that is the way it operates, what do you do in such a situation? Because one knows for cost oil what would happen. If he has not covered his cost oil up to

the limit in his production sharing contract he will say: "I am taking it over to the next year." That is my understanding of production sharing contracts. If I am wrong, and I am always willing to say that, I will say sorry, I was wrong. I never feel that I have total ownership of correctness or expertise. I know, that is why I talk to the Minister, and I am saying the same thing here today.

The other contentious area that we have encountered today is retroactivity. The South Trinidad Chamber of Industry and Commerce (STCIC), in their submissions to our Members here, were talking about January 01, 2003. I think they know that has been changed to January 01, 2004, the beginning of this period. Retroactivity, they say, is harmful to them. If nothing else, it is upsetting that their financial year has gone. They have paid their dividends if they are in a position to do so and now they have to open the account again, because they know this SPT which is devoid of all of these allowances has come to them to satisfy. In principle, I am not for retroactivity. I know the hon. Minister, has from budget presentation 2003, spoken of retroactivity but it is not the fault of the producers or the companies that it took so long to reach here and so 2003 came and has gone. We were promised the regime about early 2004. You could have said okay, retroactive from 2004, but the whole of 2004 has gone and we are well into the end of fiscal 2005. Even making it retroactive to 2004 might still be galling to some people. I have a simple question: To satisfy us, what is the quantum of revenue to be foregone in the year 2003 and 2004? In other words, you have given us \$400 million as the amount to be foregone in 2004, what was the amount we were looking at for 2003? We can think a bit about what would happen if we decide that. Really we should not do that. We should go retroactive to the beginning of this year, 2005. I would like the Minister to give thought to that.

I know that this is not the first time that we have had retroactivity. I know because I was there in the first round of the oil boom or energy crises, when, at that time the fiscal year ended at December 31, 2000 and budgets always came well before. By mid-December, you were sure a budget was going to come and that came. And that year, 1973, particularly with crude oil prices doing all kinds of things, there were all kinds of speculations as to where gasoline was going to go, was it going to be \$1.10 a gallon or whatever it is.

It was only near the end of January 1974 that the budget speech was read that time. In the budget speech the then Minister of Finance said what was going to happen. He said we were going to have a crude tax reference price, not a market price. In fact, if you go back to that budget speech you would see he quoted a figure for Soldado crude which was a base line to look at for other crudes. He also



said we were going to have a refinery throughput tax and he may have said what the two refineries would have as their refinery throughput tax. I remember it was US 5 cents and US 15 cents per barrel, something of that nature. But then it took at least to the end of March to get that Act together. The original Petroleum Taxes Act took at least that period to be put into place, that is, the design of the Act, the drafting of it, going to Parliament with it and then they were expecting it to be retroactive.

I have been through a spell when I was a consultant to the Government and we had retroactivity. I am here letting you know that so nobody would say Basharat Ali was there when they did retroactive, so he should not be saying there should not be any retroactive now. I would, on the whole and as a business person also like to feel we do not have that kind of thing. And worse, not being able to talk to a person like the hon. Minister. When you are running a small business like mine is and even a simple thing like the \$35,000 allowance matter came up, when my accounting person asked the personnel at the Inland Revenue Department a few months ago, they said you cannot be doing that on PAYE because it has not been passed. I am glad we stuck to it because we had done it already as I was anticipating that it would be passed. That is the kind of thing that happens. The public servant down there will tell the person whom he deals with you cannot do that but we know what is going to happen otherwise. That was a budget proposal from last year and the fiscal year is almost complete.

I think we might have to pay sometimes for our retroactivity but I am flexible on it. The STCIC has been lobbying for removal of that retroactivity. As I said, there is a document stating it was from January 01, 2003. If we have those two figures we can probably justify what we are going to do there.

In looking at the numbers that appear in the SPT schedule, I have not looked closely at them because if you do not know where crude oil pricing is going, it would be very difficult to say.

On a general basis, I thought we might have been a little more lenient in terms of where SPT started on land production by going a bit lower down on the schedule.

Hon. Minister, through you, Mr. Vice-President, we do not need to come back to the Parliament on that. I was looking at the Petroleum Taxes Act and section 22(2) gives the Minister the option to change that schedule by order. He just has to come to the Parliament. So tomorrow if Mr. Eric Williams decides he does not

like those numbers he can publish another order. I believe I am right. The Minister is shaking his head.

To change the earlier part which gives you the mechanics of the quarterly and so forth, you have to change it by affirmative resolution of Parliament but the order does not say that. So it seems then that there is quite a bit of flexibility. If, for example, as someone was saying, crude prices start dropping and things start looking bad—I thought we would have to come back to Parliament and change it but we do not have to do that. The law, I presume, provides for the Minister of Energy and Energy Industries to change that schedule. I think it is section 22(2) of the Petroleum Taxes Act.

Mr. Vice-President, I talk to people and I have a note which says: “At ground level if one’s ear is close enough there is talk of discontent among exploration and production companies about a perceived lack of any coherent policy. And this is very worrying for those who are engaged in the upstream oil sector.”

In one breath they hear from senior spokespersons. It is said the natural gas sector in terms of revenue is up and there is a need to boost up exploration and production activities in the upstream oil sector. We know, and I have heard this said on the radio, there is additional exploration work going on even on land in the deep areas. There is that kind of activity but then the short-term activity here is one that is suffering. So there is a bit of ambivalence. We say okay, gas is overtaking oil too fast so let us try and get some more oil and to get more oil and, to get more oil we have to find it and, therefore, we have to do the upstream work on it. And then we say, you little “fellas” who are doing the little secondary and tertiary recovery on the South farm-out or through their own company, you are going to pay a larger amount of tax because the price is high presently. So they are a bit confused. I could understand that and I say, let us have a clear policy statement of the whole production chain from exploration and production to oil and gas production.

I take the opportunity once again to say there is need for a policy statement, an implementation strategy for all downstream; refining, natural gas processing and conversion, petrochemicals, downstream uses of our resources and particularly the natural gas resources for safe, clean and sustainable development of our country.

I was discussing the question of the divestment by bpTT who, presumably have said they are no longer interested in oil in Trinidad and Tobago. That is not much news to me because in 1968 they said the same thing and went to Alaska. I have said that in Parliament. They are saying they like the gas but we do not want

oil and the TSP proposal is now being worked out, I believe, with Repsol and Neal & Massy.

I asked the question earlier on—I know for a fact because I was involved there—there are two flare gas stations near Teak and Poui and that is the flare gas project. It served us very well. It still produces about 100 million cubic feet a day of gas. It has saved us sometimes when we were in a lower dip and I hope that everything is being put into place for us to preserve those. I believe one of the options we were looking at is that NGC will have an interest in the TSP so that they can look after their own business in that area. This is important. It is conservation; it is gas which would normally be flared. It is 100 million cubic feet per day of gas. We do not pay anything for it to go to the compressors, so it is the cheapest gas we have in Trinidad and Tobago. That is my final plug and I hope to hear from the Minister.

Thank you very much.

**The Minister in the Ministry of Finance (Sen. The Hon. Christine Sahadeo):** Mr. Vice-President, a common trend in the contribution was how do we maximize our revenues and at the same time, prevent any disincentive of potential investors. I think my colleague very clearly stated at the onset that this Finance Bill really attempts to correct certain anomalies and shortcomings in the existing legislation.

We all know when the Petroleum Taxes Act was introduced that it was really based on an oil economy and as we evolved into a gas economy, it has resulted in many anomalies and concerns.

One of the major concerns was—I think Sen. Seepersad-Bachan asked the question—what incentives are we really providing to these investors? First let me clarify. As was indicated, based on these anomalies—*anomalies*, in that companies were claiming various allowances which, in fact, should not have been claimed in certain instances.

We are really cleaning up the whole process and saying SPT really is calculated on gross revenues less royalties and that makes it transparent. Because at the onset we will know what our SPT revenues are based on, just being able to calculate the SPT in terms of sales and deducting the royalties and, therefore, we would know what would be our SPT.

Regarding the incentives, let me say, certainly, if we were to look at the Petroleum Taxes Act, there are a host of incentives there for the investors. As a matter of fact, Trinidad and Tobago is still an investor's haven. We have certain

incentive allowances. For example, we have the heavy oil allowances; for drilling wells, we give as much as 150 per cent allowance. Sixty per cent in the first year and 18 per cent over the next five years which would give you 150 per cent allowance. We also have the work-over allowance which is 100 per cent of intangibles. These are just two that I have highlighted to indicate that concerns regarding the incentives really do not exist because at this time there are several incentives under the PPT.

One of the fundamental amendments which we saw was in terms of the timing of the payment and I think what was fundamental for the purpose of determining what rates should be used, in calculating the weighted average crude oil price which would now be calculated on a quarterly basis instead of on an annual basis. This would result in substantial increase in revenues because what happened in the past is you would have had to project the prices for the rest of the year and as you could appreciate with efficient tax planners, your projected price would be much less. Now, by using actual prices, you find that your revenues from the tax take would be substantially higher.

I want to refer to an article which I saw in the *Financial Times*. As a matter of fact, when Gordon Brown made his presentation in their budget earlier in March, it was quite interesting to see what was really included in that budget. At the time, we were looking at the revision to the energy tax regime. It says:

“Oil companies bear brunt of £2 bn tax bill increase to fund spending pledges”

I want to read a very short extract from it. It says:

“The biggest single item was a change in the timing of corporation tax payments for oil companies operating in the North Sea.

It brought forward £1.1 bn of tax payments from the distant future to 2005—06, giving the Exchequer a bonus almost identical to the windfall tax on the industry...

Oil companies took the increased tax payments in their stride, as the cash flow loss they face is tiny compared with the record profits being earned.”

Mr. Vice-President, this is the context of my contribution. By introducing these amendments, it is really to establish—and what was said also by Sen. Mary King. I think she made the comment, “Are we getting our just due?” I would call it, our fair share.

I think this is what this Government is trying to do. Are we really getting our fair share of these anomalies which exist? And we are saying the time has come to correct those to ensure the Government and the country by extension, maximize and optimize our revenues.

I know Sen. King had some concerns and as you asked: "Are we getting our just dues?" And, I think, Sen. Dr. Saith indicated earlier, that part of our concerns early o'clock though we are not talking about gas here, but one of the concerns was really Trains 1, 2 and 3 and the negotiations out of that, has resulted in the country as a whole not really getting the revenues that it should have gotten. We have learnt and we are correcting that with the Train 4. But moreover, what are we putting in place to ensure we get what is called our fair market value?

Sen. Ali said it is important we deal with the issue. I want to assure you that we are in the process of setting up a permanent petroleum pricing committee. We give you that commitment. I assure this honourable Senate that in fact, we are in the process of setting up that committee. [*Desk thumping*] The Senator is correct. The importance of this cannot be underestimated because the responsibility of this committee is to ensure that when we get our revenues it is really based on fair prices. This is a permanent committee which would be ensuring that by and large, the Government's take is fair and accurate and is based on current market values and, therefore, in fact, we get what is called our fair market value.

**5.55 p.m.**

**Sen. Seepersad-Bachan:** Mr. Vice-President, just two questions. The Minister mentioned the heavy oil allowance and the enhanced recovery allowances. We have removed all those allowances in this Bill.

**Sen. The Hon. C. Sahadeo:** No. Under profit petroleum tax (PPT), those remain. My comment here really is that our whole rationale for supplemental petroleum tax (SPT) is to compute SPT based on gross revenues less royalties and other allowances were discontinued. The incentives are in computing your PPT, which is analogous to corporation tax, where you have all these mammoth allowances which still persist and, therefore, by and large provide a substantial incentive for the investor.

**Sen. Seepersad-Bachan:** But you have removed the heavy oil allowance and the enhanced recovery allowances?

**Sen. The Hon. C. Sahadeo:** Only from the SPT.

**Sen. Seepersad-Bachan:** But it was never applied to [*Inaudible*]

**Sen. The Hon. C. Sahadeo:** We have removed all allowances in the computation of SPT. The incentive resides really in the computation of PPT.

**Sen. Seepersad-Bachan:** The second question is: Are you now putting in the petroleum pricing committee? That is part of the Petroleum Taxes Act. It is the law. There must be a petroleum pricing committee.

**Sen. The Hon. C. Sahadeo:** We are re-establishing a permanent petroleum—

**Sen. Seepersad-Bachan:** Right now you have no committee in place?

**Sen. The Hon. C. Sahadeo:** There is no formal structure.

**Sen. Seepersad-Bachan:** Without a committee, you are acting ultra vires the Act.

**Sen. The Hon. C. Sahadeo:** Mr. Vice-President, the question was posed and, as you know, we are always honest in our deliberation and what we present to you. It is not ultra vires the Act.

The average price being used is really based on a quarterly basis instead of an annual basis. It means that we are actually working with current data. The whole simplification of this taxation system will result also in some increased transparency. As I said, it would be quite easy to compute SPT. You do not have to be bright or a genius to be able to compute the SPT. We indicated that by the next budget we would have the natural gas/energy regime in place. That will also be important.

The question was asked as to what incentives we have for the smaller operators. The mere fact that we have restructured the whole scale of rates suggests, in the first instance, that for the land operations there is a bigger incentive. Moreover, at this time, Petrotrin is reviewing the overriding royalties and is looking at what adjustments could be made to increase the incentives regarding the land operations particularly. We are also looking at addressing that issue.

Sen. Seepersad-Bachan was quite complimentary in suggesting that we are looking at enhancing local content and building local capacity. That is certainly foremost on our agenda and is something that we will continue to do so that as we

negotiate production sharing contracts, E&P, training in local content and building local capacity continues to be of paramount importance to this Government.

One of the items I was hoping to hear some applause on was that we have SPT on condensate. This was an item on which the Government did not collect its due revenue in terms of taxes. It was an anomaly that existed for quite a while. It should be between \$10 million and \$20 million dependent on your production. It was quite a difficult decision. How do we compute the quantum of condensate? The Act went into some detail in terms of how we would be able to calculate the condensate and, by extension, the SPT on condensate. We did not take the easy way out. We decided that there were revenues for the Government and, as a result, it was important that we take advantage of that.

Mr. Vice-President, I wanted to make those short comments. To summarize, the whole essence of it is to communicate to the honourable Senate how we are moving forward. We are using an international model. We used a consultant who has experience internationally, so when we implement decisions as they affect all companies, which are mostly international, we are more or less consistent with international thinking.

By and large, we have had substantial discussions, and, as you know, increasing the tax take means that other people will pay more taxes. We will not always be on the same page but, by and large, as said in the article I referred to, the revenues by the oil companies have increased substantially at this time and we therefore expect, with the introduction of this Bill, substantial increases in the Government's tax take.

I thank you.

**Sen. Sadiq Baksh:** Thank you very much, Mr. Vice-President. I join the debate on the Bill to provide for the imposition or variation of certain taxes and to introduce other provisions of a fiscal nature and for related matters.

I begin by addressing an issue raised by the hon. Minister of Public Administration and Information. I hasten to add that this hon. Senator does not normally get things mixed up, but today he just did not get it right in terms of the difference between the exploration and production licences regime and how it operated and the petroleum profit taxes that must be paid for the gas at the well head.

Mr. Vice-President, he went on to talk about the administration to which I belonged and of which I was a Cabinet member. We ensured that when extension

of licences was sought to facilitate the investment decision, that those were extended, but that they were extended at a new rate of royalty. It was 1.5 cents at the time and the new rates kicked in at that particular time. I do not recall the exact rate. I was part of the Cabinet, but I am sure that those expired; some will expire in 2007, 2008, 2010 and 2012. The point is that they were renegotiated at a new rate.

Further to that, the Minister raised an issue in terms of market price. I do not understand how this administration can collect pricing at Spanish market rates and then sell to the US. I hasten to add that I read a report in the daily newspaper after the Minister of Energy and Energy Industries, in his contribution to the Appropriation Bill, 2004, on October 18, stated that the Government of Trinidad and Tobago then believed that there existed sufficient justification for the contracts to be revisited, as there was scope for increased returns to this country. He said that such benefit would occur provided there is a more equitable sharing of the benefits accruing from cargoes which are destined for the Spanish market that were diverted—a critical word—to more lucrative US markets.

Mr. Vice-President, any government, knowing that any company in Trinidad and Tobago is doing that, knows that it is fraud. I call on this administration to take steps immediately, retroactively to recover any funds lost by the Government and people of Trinidad and Tobago.

**Sen. Dr. Saith:** Hon. Senator, no company in Trinidad and Tobago is doing that, as you well know. You signed an agreement which gave the marketing to a company external to Trinidad and Tobago and that company has two other companies between itself and the seller of the product. That is why the contract has to be reopened. I am not ascribing ulterior motives. I am saying that the reality—

**Sen. Seepersad-Bachan:** Is that not what you were doing—ascribing ulterior motives?

**Sen. Dr. Saith:** No. You can accept it as ulterior motives, but I was merely saying that we had an arrangement on 1, 2 and 3, in which, because we had a fixed price ex-Trinidad and Tobago, we were not yet reaping the benefits.

**Sen. S. Baksh:** I hasten to inform this honourable Senate that during the period that I was part of the former administration that was providing service to the people of Trinidad and Tobago, no cargo that we were aware of was diverted from any Spanish market to the US market. I hasten to add that if we were aware of that, whether it was by second, third or fourth party, we would have taken the



corrective measures. It is all about monitoring. They need to monitor what is taking place. They need to know.

In any contract, if any party feels aggrieved and that it is not receiving its fair share, there is always an opportunity to open the contract. I said that the hon. Minister just did not get it right then because I know that he would not deliberately mislead any of us. That is why I took the time to point this out and categorically to state that—I am sure it was not recognized at that date—immediately this administration recognized that it was taking place, they should have taken steps to halt that illegal activity. Whether or not it is illegal, if you have two contracting parties operating within any environment, it is in the interest of both parties to come to some amicable solution. If they do not, they can go to arbitration and if it does not go to arbitration, you have legal recourse.

Mr. Vice-President, a very important issue is local content. Most of the contracting companies with local ownership operating in south and other parts of Trinidad and Tobago will—*[Interruption]* Not necessarily. I read that clause 11(f) seeks to repeal section 22A, geological and geophysical allowance; section 25, exploration allowance; section 25B, heavy oil allowance; section 26, investment allowance; section 26A, enhanced recovery allowance; section 26C, allowance to be claimed in a financial year; section 26D, deductibility of allowances; and the substituting of new section 22A, which would stipulate that where the gross income of a person derived from the production of crude is to be ascertained, the initial producer shall be deemed to have produced the condensate recovered from the gas pipeline.

What this would do is “lick up” local operators, people who will not benefit from the allowances that were there before. The international investors will come here prepared to invest and they would benefit from all the other activities. I am talking about the local investor with a small lease operatorship or even the people utilizing the activities in the oil sector, mainly people from south Trinidad. Mr. Vice-President, it cannot be the intention of this administration to discourage local participation in our hydrocarbon industry. What I thought was that there would have been a special section dealing with incentives for local entrepreneurs who want to get involved in the gas and energy sector.

After boasting of being in oil exploration for over 160 years, we in Trinidad and Tobago cannot boast of having the infrastructure in place to allow small business people to get involved in the energy sector. How they got involved in the initial days would have been by participating in training. The oil in the early days provided the infrastructure for the future industries that came, which are now the

present industries. They train the human resources in almost all aspects of the industry. When they took people in and they trained them as electricians, mechanics and tool pushers, we were developing the human resources. Some went to other parts of the world and some remained in Trinidad and Tobago. Today it is a different story. There are people coming in to work for 30 days, going back out and coming back in for another 30 days. We have no problem with that. I understand and support the concept of skills security; not necessarily job security in terms of years. I am speaking about the incentive for the foreign companies—the companies in the early days—which contributed in many intangible ways other than the taxes and revenues that we collected either at the well head, from royalties or from profits.

What we are not seeing is any creative introduction of a new policy in terms of the oil sector to encourage locals to participate and thus have new wealth created from our resources. In addition to that, the oil companies in Trinidad and Tobago have the largest landholding under their administration. If you look at the amount of land under lease to the local oil companies, we can find some innovative way of getting those lands to be productive.

In the early days employees of the oil companies utilized those lands, and, in fact, 90 per cent of our beef production came from people who worked in the oil sector. That supplemented their income, but it also supplemented the market so that the food import bill was reduced at the same time. There were many people who utilized those agricultural lands that were under lease ownership of Petrotrin, Texaco, TOL, either in Forest Reserve, Guayaguayare, Brighton, La Brea and all other areas and that contributed to the economy of Trinidad and Tobago.

I would have hoped that while they were looking at this overall review of increasing our fair share, simultaneously they would have been looking at that. In addition to that, when the Minister of Finance spoke earlier, I was not here, but I was able to look through some of the things he said. He indicated that the macroeconomic situation and all the macroeconomic indicators were in place and that we were set to benefit from an outstanding windfall. How could we benefit from that outstanding windfall when we are not able to enforce the basic requirements necessary to promote enhanced living conditions? While all the macroeconomic indicators say that we are progressing, there are many people who cannot pay a simple light bill, which is the product of our natural resources. I really do not understand that. There are people who have their electricity disconnected for \$228 and have to pay over \$100 to have it reconnected. Those electricity bills came up after utilizing two 25-watt bulbs for six months.

**Sen. Sahadeo:** Mr. Vice-President, are we aware that we have the lowest electricity rates in the entire Caribbean?

**Sen. Mark:** Aw, come on!

**Sen. Sahadeo:** It is important that we note it because too often we make comments and I think, for the record—

**Sen. Mark:** We are not the only country with natural gas so what nonsense are you telling us about. [*Inaudible*] It is a non-argument.

**Sen. S. Baksh:** I am really amazed by that interjection of the Minister in the Ministry of Finance. What this administration does not understand is that they cannot say to an unemployed person that unemployment is falling. That person is still in that sector that is not employed. Nothing they tell that person can work. They cannot tell a person who cannot pay his electricity bill that he is paying the lowest rate in the world. It can be as low as they want. It is important to understand that. I want this administration to understand fully—[*Crosstalk*]

**Mr. Vice-President:** Please Senators, [*Inaudible*] the crosstalk.

**Sen. S. Baksh:** Mr. Vice-President, if this administration cannot understand that, we have a serious problem. While we are not against the measures to take care of all the things passed in the budget, we have a deep concern for the Government's lack of understanding as to what is necessary to improve the quality of life for ordinary citizens of Trinidad and Tobago.

Mr. Vice-President, when they give them a little work, we are not vexed about it. We are saying that the little work they give them should be short term. While they are giving them that short-term work, they should then train them for sustainable jobs in the future. They cannot talk about job security and skill security and not provide training. While they cut grass and live for a short while, they cannot look for them permanently to make a living from a whacker.

I am asking the administration to take notice further of Part III, clause 3 of this Bill—section 3 of the Old Age Pensions Act.

#### PROCEDURAL MOTION

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** I beg to move that we continue the debate on this Bill until its conclusion.

*Question put and agreed to.*

**FINANCE BILL**

**Sen. S. Baksh:** Mr. Vice President, section 3 of the Old Age Pensions Act is being amended. We do not have any objections to deleting the words “one thousand dollars” and substituting the words “eleven hundred and fifty dollars”. We have a problem with the Means Test that old age pensioners must go through. We are recommending a universal old age pension for all citizens over 60 years of age. The cost of living now is so high that no individual can be sustained on \$1,150. Worse than that, the means test is really to choose whom you want to give old age pension. It becomes no longer a right, but a privilege and that is the problem. We have a serious problem once any government wants to introduce a means test. It is the same problem we have with GATE; not GATE generally, but everybody in Trinidad and Tobago needs a gate because of the crime that is taking place. However, in this GATE, we need to make sure that the means test is universal.

When you talk about transparency, it is the only way. You will find that anybody who does not get it believes that an injustice has been done to them. Why create an arena that could give you a bad name? I cannot understand anybody wanting to do that. The best way to eliminate that would be to remove the means test, have universal old age pension and universal education. Universal tertiary education for an oil rich country is not an unreasonable request. It is, however, the only guarantee to a bright and prosperous future. If you provide education for all your citizens, then you are providing a prosperous future.

**Sen. Enill:** [*Inaudible*]

**Sen. S. Baksh:** I hope it is not coming as the licence for quarries. [*Laughter*] If so, you are in trouble. Mr. Vice-President, that really was not for the Minister of Finance. That was for the Ministry of Energy and Energy Industries. I am reserving that. The Minister of Energy and Energy Industries, in fact, stated early that that was necessary. The same Minister, it was reported, said that he knew material was being diverted, promised to do something about it and almost one year later, nothing has been done.

This is an administration that really does not monitor and enforce. In fact, some of the hydrocarbon resources of Trinidad and Tobago are loaded on the vessels. This brings me to the point, they are aware of the diversion of goods. There is a country of origin and a destination and they are aware that through creative transportation there is now an invoice and a bill of lading that was cut in a country of origin and going to a specified country to which they do not allow

transshipment. That is the way they do it. At a policy level, you do not allow transshipment of any of your products. It must go to that destination and from that destination, you might not have control. My point is that if you know that and you do not do anything about it, then you are as culpable as the other party.

**6.25 p.m.**

Mr. Vice-President, I will not go so far as being an accomplice. The Minister of Energy and Energy Industries pointed out that there was this quarrying problem, and hid behind legislation. I am saying that the existing legislation and regulations allow for the proper monitoring and enforcing of all the laws as they pertain to quarrying in Trinidad and Tobago. [*Desk thumping*]

**Sen. Mark:** Why are they not taking action? Why is the Government not taking action?

**Sen. S. Baksh:** I am calling on this administration to take immediate action now. It is simple and they do not have anything to be worried about.

**Sen. Mark:** Is the Government afraid of the Jamaat?

**Sen. Seepersad-Bachan:** They are afraid of the Jamaat.

**Sen. Mark:** Are you afraid of the Jamaat?

**Sen. Kangaloo:** I am afraid of you. [*Laughter*]

**Sen. Mark:** You better be afraid of me. It is only a matter of time—

**Mr. Vice-President:** Please, Senators.

**Sen. S. Baksh:** Mr. Vice-President, with respect to public assistance and the disability grant, I am not sure if you are aware that there are many citizens who had their disability grant discontinued while they remain disabled. Many persons! If that is not true, the Minister is here and I am sure that she will correct me. I do not plan to mislead this House on any occasion.

**Sen. Mark:** She has been promoted.

**Sen. S. Baksh:** Mr. Vice-President, the disability grant and public assistance that are given to many citizens in Trinidad and Tobago were discontinued over the last three years. It is the highest number that was discontinued in any period since the introduction of public assistance and the disability grant.

**Sen. Kangaloo:** Mr. Vice-President, through you, I want to inform the Senator that there is a qualifying income criterion for disability grant. If at some point in time you fall out of it, then your disability grant will be discontinued.

**Sen. Abdul-Hamid:** What about all the heart attack persons and persons with high blood pressure—

**Sen. Mark:** Cool it Hamid. You are in education.

**Sen. S. Baksh:** Mr. Vice-President, I am not accusing the Minister or the Minister responsible for deliberately doing that. I am saying that there are some bureaucratic obstacles that were artificially created to ensure that the disability grants of these persons were discontinued. It is simple. The Government could find creative ways of doing it, instead of allowing public servants to let you get the blame for it.

The Government could organize a group of non-governmental organizations that are committed to the development of Trinidad and Tobago. There are many reputable non-governmental agencies and the Government could hand it over to them and let them administer, monitor—since you cannot administer, monitor—and enforce the rules where necessary and you are going to see an immediate reduction in the blame coming to you but, more importantly, you are going to see just, fair and equitable distribution of the resources of Trinidad and Tobago; you are going to see a reduction in poverty; and you would be able to attack poverty with the windfall resources that we now have. That is one of the ways in making sure that the citizens benefit from the resources that we have now.

Mr. Vice-President, all in all, the issues here will go a long way in regularizing what was intended by the administration when they introduced the budget. There are some things that we feel strongly about; and there are other matters that we support the Government with in terms of introducing—but, overall, we are of the view that the administration needs to be more sensitive to the population—measures to meet the needs and the aspirations of the people of Trinidad and Tobago. We need to get a fair share. The same way the Government wants to get its fair share of taxes from all the companies; the citizens of Trinidad and Tobago want to get a fair share of the natural resource of Trinidad and Tobago.

Mr. Vice-President, they also want to make sure that the Government is providing the infrastructure, not handouts, to allow their children to have a better education; to allow themselves to get better health care; and to make sure that those who contributed to the economy of Trinidad and Tobago, when the time comes for old age pension, they are not penalized for savings; they are not penalized for acquiring wealth, because they contributed towards future pensions. That is why we are recommending universal old age pension.

The administration should set up a team that would be beyond reproach for the administration of public assistance and disability grants. If you follow that recipe, I have no doubt that the people of Trinidad and Tobago will be better off sometime in the future.

Mr. Vice-President, I thank you very much. [*Desk thumping*]

**Sen. Brother Noble S.A. Khan:** Mr. Vice-President, I just want to make a short intervention. I know we have had quite a bit on what is before us, and it does give my heart an element of satisfaction to see what is before us. It was always my feeling—I think it was expressed here—that the question of “fair share” and what is “just”, as nebulous as they may appear to be, we never really got that. This is obviously a step in that direction.

We have heard the question that as far as what we collect and—I think that is a very important part of this whole exercise—where these inflows go, there are two major points that came to my mind here and I am going to touch on one. I think Minister Sahadeo mentioned it and that is a petroleum pricing committee.

To my simple mind, I also felt that as far as the nation was concerned, there was not a satisfactory feeling that we knew what was going on with gas and oil—how they were being priced and so forth. I would take it that this pricing committee, other than that what passed was tight elites—even within the government systems or even close to outside the government systems that dealt within this framework of setting the price for oil and maybe other products.

Someone mentioned that we have been in gas and particularly oil for quite some centuries plus, but we have had the University of the West Indies around for quite some time and other institutions of higher learning have emerged within recent times. I would like to see, possibly within the framework of these institutions of higher learning—lip service may have been paid to some institutions with respect to the gas and oil inputs.

Mr. Vice-President, even from the academic professional level, and even at these levels, we should form alliances with other institutions where they exist throughout the world—possibly in the Middle East, America, Russia or even Venezuela which is next door and so forth, so that we would more or less have a sort of inflow and this is kept before our mind’s eye, as to the many important things that we ought to do.

Towards that end, the question of inflows and where they should go, I see that we had some precedence as far as our colleagues were concerned, insofar as where some of these moneys would be going and we look forward towards that—

Tuesday, July 19, 2005

*Finance Bill*

[SEN. BRO. KHAN]

for example the question of tertiary education being “free”. I did mention in June month that this was so at one time in Trinidad and Tobago. We would like to see that again. I think I did mention it. I am not claiming anything.

Mr. Vice-President, I would really like to see the question of the old age pension being addressed. We are in a position for it. In some countries like Canada, I understand that they pay everybody and this forms part of their inflows when they make their tax system. I do not know how you will deal with that. Definitely, across the board, I think the service that our people have given and the contributions that they have given to our country, when they have reached the age of 60 or 65 or maybe less, that recognition should be given to them. I have no idea of what the cost would be like, but I think it would be worthwhile giving those persons that recognition since they have contributed and have reached more or less the end of their working career.

I, too, would like to add a bit towards the input as far as the small person is concerned. I have no figures on it, so I definitely cannot make a contribution towards that. I suspect that at the lower levels—the marginal levels as I would like to call them where the small man is—the input that he is capable of making towards the society is by far—on a ratio basis or a relative basis—less than the big multinationals. We heard it said here that they are here to get, and we know that. A former great man of our country referred to them as being “international pickpockets”. They were here to take what they could get and perhaps that is how the system is.

With respect to the small man who is into the oil business—regretfully, how I understand it in the folklore is that in the old colonial days small people who tried to establish wells met their death under suspicious circumstances—oilfields were destroyed by fire and so forth. Those were earlier attempts, but we are seeing a new cadre of people emerging and I think we should give them some support. If what is before us is going to impact unfavourably on them or in a way that would not allow for their existence, I think we should give some consideration to that matter.

These are my major inputs. I would hope that what is before us does not end up as some meritorious exercise that is to show something that might appear to be attractive and by any means not so. I genuinely feel that what is before us is meant for the benefit of our country, and I would really like to see that it does realize that.

Mr. Vice-President, thank you. [*Desk thumping*]



**Sen. Dana Seetahal:** Mr. Vice-President, thank you very much. Actually, I was not going to speak, but on reading clause 19 of the Bill and looking at the Order, it occurred to me—this deals with privileges and immunities—that this probably has no place in a Bill which would be an Act. Why I say this is that clause 19 purports to amend an Order that was made by the President.

If one looks at Chap. 17:01 of the Privileges and Immunities Act it says at section 9(2):

“The President may, from time to time by Order, declare that any international or regional organization by an agency...named and described...as may be specified in the Order, be accorded the privileges...”

Mr. Vice-President, the point is that it is the President who makes an Order to allow this. What we are purporting to do is by an Act do something that we have no power to do. This Order was made by the President and I have it here under section 9(2) of the Privileges and Immunities Act that gives the power to the President. I do not know that Parliament can now step in and take away a power that was given to an Order. It may be so. Maybe the drafting people did not tell us, but in my experience, if it is that the President made that Order, he is the one to change it. That is the first point in respect of that and, therefore, that whole clause should be deleted if what I am saying is true, and I see no reason why it is not.

I have never seen at any time—and I have been here for the last years—where Parliament amends an Order. I am in the rules and regulations committee and usually we get those Orders to vet, and they come from the party to whom the powers have been given to make those Orders.

Having said that, the second point is that under the current Order made by the President, the privileges extend to trustees and judges of the court. I remember this came up at some point. It seems to me that there was no inclusion of the commission and now there is that inclusion. Sen. Mark has talked about that inclusion now operating to protect a certain judge who is in the commission. Now, of course, he was not sued in Trinidad and Tobago, so it cannot protect him here.

It would be instructive to know whether or not this provision is in other jurisdictions such as St. Vincent where he is a native; and whether this provision is there for his protection. If so, then we ought to say something about it because no one should benefit from having—unfairly I think to the disadvantage of other

litigants—a provision which I think is really immoral—where a judge who is a member of a regional institution is choosing judges for the top court—to benefit from this kind of provision. My point in summary is that it should not be there. Why is it there? In any case, why are we doing this? Is this common throughout the Caribbean? If it is then I think we should express our concerns about it.

The third point is in relation to old age pension. I remember in the budget debate checking the cost to the country for that and it came up to nearly \$900 million plus, and if one adds disability it is over \$1 billion—bearing in mind that in the last budget \$6 billion went towards paying debts. So out of \$16 billion available, over \$1 billion went to paying old age pension. I think in the last four years we have jumped from \$300 plus to \$1,150. I do not think there is any reason really, not to only raise this, but to extend it to other persons who are already benefiting from other things. We cannot just go and have a total welfare state. So I have to disagree with my colleagues on this matter. We are going there already, and it is a good thing that we actually have these new provisions which I understand would enable us to get more money, because we would need it if we are going to extend our welfare umbrella throughout this country. What would happen in a few years' time?

Finally, there is this matter about coming to validate things afterwards. The first time we had to do it I talked about it. Every year I talk about it and it is just like talking to nobody. I am sorry to say that, but why do we do it? Why it comes at the end of the year? So everything that we have been doing—the Minister has been pointing out that we have been doing these things, and we do not have the laws. Why? Why did you not come in January and talk about it? Of course, we have to do it now and there is no choice. This is really totally inefficient and inexcusable. Mr. Vice-President, you know, one day we would just put down our feet and say no.

I hope to make a point because we need to make points in this country to some people. I do not necessarily mean the Government here, but on a wider scale. There are others that we need to make a point to and we might want to start with the Government if they persist in being delinquent in this way.

Mr. Vice-President, thank you very much. [*Desk thumping*]

**The Minister in the Ministry of Finance (Sen. The Hon. Conrad Enill):** Mr. Vice-President, thank you. Let me thank all the Senators who have contributed to this debate. It was stimulating and very moving at certain times. Let me deal with the last contribution first. Why is it late? Successive governments have had to deal with the issue of officers who were basically

involved in drafting legislation. The law says, in many instances—and even if I went outside and I contracted somebody who has the skill, the ability and the expertise—when I get it to the system, the system basically does not take it. Therefore, the real challenge that the Government faces in this matter is to have all its legislation pass through a small group of officers who are overworked, underpaid and, in many instances, have other responsibilities.

This is one of the areas where the Government sent officers on training in order to try to address this particular problem. The real issue therefore is capacity; the real issue here is human resource; and the real issue here is the work of the few officers that are assigned this responsibility. Let me thank them, on your behalf, for the good work that they have been doing. We are going to try and deal with that matter. With respect to the issue in section 19, I am very sure that they would advise us as we move forward.

Mr. Vice-President, let me deal with some issues. The first issue is that I keep hearing about small fields and what we have done. In looking at this issue you need to look at two things: the current table and the table that preceded it. Now, if you did that, you would see that the adjusted rates in the SPT were done to provide for a number of things like the marginal fields. Let us talk about the marginal fields for a while.

Insofar as marginal fields are concerned—both marine and land—the low SPT rates—the wider bands and higher threshold prices—are going to create a benefit for the small producers. During the discussion that we were having on what would have occurred with the new SPT rates, I had our staff, on the basis of information that was available to us, look at what the position would have been with respect to the year 2003 as it related to these small producers. We took three of them during the year 2003, before the amendments and after the amendments. It has always been our intention that whatever we do would deal with the issues that the small San Fernando producers were talking about. The information that they have on the basis of the returns that is available to us—quite frankly, we have no new information on 2004 at this point in time, but for 2003 the least the operators paid was an SPT of a total of \$3.9 million and PPT and unemployment levy of some \$3.4 million. So we had a total payment of some \$7.3 million, and without SPT they would have actually paid \$5.55 million. Under the new regime, based on work on computations made for the five companies, the reduction in taxes was \$711,538. So, simply on the basis of using the data that we had for 2003, our computation is that there would be more cash flow available to these small producers.

Now, there has been a lot of discussion on this matter. As you know, some of these producers are in fact aligned with larger institutions and some are also involved with Petrotrin. There is an ongoing discussion right now in Petrotrin—I think Minister Sahadeo talked about it—insofar as dealing with the question of overriding royalty.

Petrotrin is of the view that they have to do a significant amount of infrastructure work to keep these fields and producers in some kind of service. What the Government has decided to do is to pick up whatever the costs are, as they relate to Petrotrin, as a way of passing on this benefit to these small producers. So that was taken into account. This Government is not uncaring as some persons would like to think.

In many instances, when we have to do the work we are constrained by the information that is available. We are also aware of the fact that from time to time there are a significant number of agendas that are in place. According to the information that is available, based on the international laws where we have pegged the SPT rate and where the fields cannot break even, they should be shut down and we should not support them. Therefore, we are trying to do two things with this: one is to ensure that we give the benefits and to ensure that there is more cash flow. Wherever we can assist the small producers to be efficient, we would so do.

What is the reality on the ground? Let me go to Sen. Wade Mark. What is the reality on the ground? He said that the health care is in shambles; poverty continues to escalate; there is no significant transformation; there is no significant diversification; we are totally incompetent; and we are using the Parliament and so on.

Well, Mr. Vice-President, I have a different view on some of these matters. Yes, it is true that you have to look at the micro sector, but it starts with having the macroeconomics right, and we have the macroeconomics right. What the macroeconomics allows us to do is to be able to get our share of revenue and to be able to use it in the transformation process.

The challenge we are faced with has to do with the institutions and the people. Many of these institutions are not as yet incentivized, or set up in such a way that they can deliver the kind of service that we want to deliver. The system, as I would continue to articulate, is one based on loyalty. If an individual believes that he or she should be loyal to Trinidad and Tobago, then they work very hard and they give you that level of service. When that individual decides he or she is no longer available, then you get a level of service that is not what we really want.

One of the real challenges that we are faced with is finding a mechanism within the constraints and the constructs to incentivize people to produce. Regardless of which government is in power, they do not deliver a result that is different. If you look at national security you would see it; and if you look at health you would see it. The issue is not money. Once you put the money within the system, the system does not know what to do with the money; the system does not know how to convert that into the delivery that you are looking for and, therefore, on the one hand, putting money—

Now, our experience has been that in many instances the right choices are not being made because you do not have the level of human resource that can respond in the environment that we operate in today. Whenever you choose to get the right people, what you have is some commentators saying it is political; it is your boy—there are boys for the girls or girls for the boys and so forth. All that you are seeking to do, in many instances, is to make the system better. In the final analysis, if you make the system better, you will stay in government. If you do not make the system better the population will get rid of you. So there is an inherent incentive in the system to get the right people to do the right things when you want them done.

With respect to the benefit of customs, Sen. Mark asked how much revenue we are foregoing. I think he raised that question in the budget debate and we talked about \$9 million or something like that.

When we proposed this amendment, it was against the background that this was a benefit that was not looked at for about 10 or 12 years. There was absolutely no reason why we could not improve this benefit to citizens of Trinidad and Tobago, who did not receive an increase in this benefit. We thought that it was something that we could give the population.

In terms of the issue with the Securities and Exchange Commission (SEC), the current state of affairs is that this matter is under investigation. I am aware that the matter is ongoing and the parties are meeting. There is a hearing being held and when the results of that are completed the SEC in its normal way would adjudicate and do what has to be done under the law.

Sen. Mary King talked about PetroCaribe, but one of the unintended benefits of the PetroCaribe situation was the determination by Trinidad and Tobago. Quite frankly, Petrotrin needs to be put in a position where it would become a global player. That is the reality that has come out within the context of this whole discussion and Sen. King is correct. What is being provided to the countries—the other territories—in a real sense it will be difficult for them to say no.

The current position is that Trinidad and Tobago's Prime Minister has been asked to share the discussions and to look at the issues and to determine with the Venezuelan government how this matter can be resolved, and what is in the best interest of everybody.

What we have done in Trinidad and Tobago by the setting up of the Caribbean Petroleum Fund, from all intents and purposes, is a superior mechanism for delivering this benefit. We are committed to continuing this benefit at this particular point in time.

Sen. Mary King asked a number of questions and I would love to have a discussion with her afterwards on some of these matters, but let me just deal with those matters that I can deal with now. When can we expect to get the regime for gas? Two weeks ago, Cabinet approved the work of a technical team to look at the basic amendments that were taking place and have authorized the technical team to meet with the producers to discuss these measures.

Now, principal in the discussion is the issue of fair market price for the product. The whole discussion and the whole principle are based on the concept of fair market value. It was in that context that the issue of the Petroleum Pricing Committee and the support technical infrastructure for that whole industry was being looked at.

One of the issues we have for example is that we do not now have a body of human resources that are able to sit on a 24/7 basis and track what is happening in that industry. That industry is complex. What we have found is that even some of the players do not understand the business. We are building that capacity now and we are at the stage where the role of the Petroleum Pricing Committee, as is put in the law, cannot provide the resources or what is required right now, simply because the law states that a number of public servants form this committee. I think it is made up of Permanent Secretaries from the Ministry of Energy and Energy Industries and the Ministry of Finance and a number of other individuals.

What we have recognized is that these individuals at their meetings once a month, cannot and do not have the technical competence to do so. So even the Petroleum Pricing Committee, as it is now structured, does not meet the requirement. One of the initial pieces that we are looking at is to make sure that the appropriate arrangements are in place to deal with that matter so that Trinidad and Tobago can continue to get its fair share by understanding what is taking place in the market place.

Is the SPT going to cover the gas business? I would get back to you on that matter. I am not sure. I know that once we had decided to do oil and gas regimes differently. The issues relative to the gas regime are currently being discussed. The question of an SPT for gas—if you are looking at fair market value, then what you are really doing is getting the destination prices. Therefore, what you received on the gas fields, as opposed to what you received on the oilfields, is slightly different. I think that is going to be worked out within the context of the new regime.

Would the petroleum-sharing contracts be reopened? If I understood the question, you asked whether current contracts that are enforced would be reopened. Well, right now, based on what we know about some of those contracts, we have negotiated that they should be opened mutually, because there are issues that we have with some of these contracts. It is our intention to review those contracts to make sure that we get the benefit that we need to get right now.

What is the model to identify what is fair to both sides? Well, the way we have attempted to deal with this matter is not necessarily to look at the issue of what is fair, but to look at the issue of what the rest of the world is doing and where does the Trinidad and Tobago regime fit in the context of all the producing countries.

When we last looked at that matter we found that we were in the third quartile—somewhere in the higher end. So, in a real sense, if we looked at where Trinidad and Tobago was positioned internationally, we found that there was not much room to move before you became uncompetitive. Therefore, that is the first principle that we looked at.

The second thing that we tried to ensure was that the technical expertise that we used had no other vested interest. So this particular consultant that we are looking at does not work for oil companies; he only works for the Government. In those set of circumstances, we are more than likely to get a Government's position that is unbiased by a multinational interest. That is why we have tried to do that.

When the resources are depleted, what happens? One of the things that we are committed to doing—again, here we are going to talk about the question as to why the Heritage and Stabilization Fund is not before the Parliament. That is the same issue. There are so many things that we could do at one point in time that pass through the same funnel, but the thinking has always been that for additional revenues, what you would have to do is to move and sterilize some of them and over a time build financial assets.

While you are doing that, the Government has taken some very specific policy initiatives in trying to look at a number of other sectors and it is paying special attention to those other sectors by first of all identifying them and, secondly, by creating the legislative and other environment for success. The ones that we have identified are the ones that are actually being worked on with some success like the financial services sector, the tourism sector and traditional manufacturing has also been targeted, but that is going through some issues.

Mr. Vice-President, although within recent times, through a mechanism called the Business Development Council, we have been able to specifically target particular sectors and launch them in a particular way to create additional activity. We have done the film industry some time ago; we have done yachting; and I think that there are 17 other sectors that are being looked at. This morning we did maritime.

Mr. Vice-President, the thinking here is that the business community, from time to time, has said to us that it needs some kind of incentives to develop certain sectors. The mechanisms that we have used and are continuing to use is to bring this group of leaders together, supported by some technical competence, to try to work out what is the best model for moving forward; complete with a regime of incentives as well as infrastructure support and so on.

This committee meets on a weekly basis and we adopt the work done by those particular sectoral groups, and they would form part of the larger policy position of the Government. So recognizing that oil is a depleting asset, and recognizing that we need to do more because the jobs do not really come from oil and gas and they really come from the other sectors, we are basically looking at that.

The other initiative that we are looking at—at some point in time we are going to explore that fully—is what the Evolving TecKnologies and Enterprises Development Limited (eTeCK) is doing in Wallerfield and where that is going to position us in the new economy.

What are the changes in Train 4? Well, you are correct. When the Prime Minister said some time ago that we needed to review the Train 4 elements, the first thing that happened after we got involved in that process was that the capital cost came down by US \$100 million.

The second thing that happened was that when we looked at the composition—the way in which the Trains were being set out—we were able to negotiate part of the premium that we would have received based on destination. We worked out the basic Henry Hub price and we went back to the value chain



and determined, every step of the way, what the basic elements of costs were.

We also said that based on the various destinations—some destinations either have a discount or a premium—we would share a particular percentage of whatever additional value was received, based on the market price or based on where the gas eventually ended up. This is going through a particular exercise and we compared that with what occurred in the other Trains.

When we started to contrast, compare and to look at what were some of the leakages—initially that is going through a particular exercise and because of the robustness of that exercise, we understood some of the issues that we understand now, and we are now in negotiations trying to deal with that matter. This is where we need to understand the question of retroactivity.

I hear all the discussions about the investment climate; and I hear all the discussions about all those kinds of things, but do you know what I do not hear? I do not hear when we find a situation in which companies, through no fault of anybody's, are in fact doing something that causes their organizations to have so much of our revenue, that that is obscene. Why are we not moving to quickly fix that and deal with it? It is in that context that I want to discuss this question of retroactivity. It is unfair and it is unjust for us to suffer simply because, as some would say, we did not do it right.

The fact of the matter is that when we sat and started to discuss the issue, we could not have known then what we know now. This is a complex issue. You have absolutely no idea how complex this matter is. Even though we know that it is a complex matter, we are still not able to get our hands around all of it simply because of what we have to deal with. As long as we can get the revenues legitimately; and as long as we have negotiated, which is what we have done, we are going to take it.

Does the Minister see a role for small oil companies? Yes, he does. The amendments that we have put in place and the table that we have, hopefully, will deal with that matter. If it does not, we are going to move to change it again. There is a point at which beyond a certain number the thing just does not make economic sense.

The Revenue Stabilization Fund seeks to do three things as we have intended: one has to do with price oil shocks which are the stabilization element which is the first piece that we have talked about; the second piece has to do with strategic investments, and this is where we are basically creating some resources to look at strategic investments; and the third piece has to do with the question of some kind

of savings for intergenerational equity.

Now these are the modalities that would come to the Parliament for legislation, as soon as we can get, and the thinking relates to how we are going to deal with the revenues that we are receiving—the additional revenues that we had budgeted for and the additional revenues that we had anticipated.

Let me just make a side point in all of this. There was a lot of discussion about revenue increases and where the money gone. For those commentators who are making that point, they need to remember that notwithstanding how we feel about the implementation of the health service, the implementation of the education service, and the implementation of the works infrastructure, there are costs that are recurrent that we have to meet on an ongoing basis.

**7.10 p.m.**

Sen. Seetahal is correct, our debt cost is close to \$7 billion; our personnel cost is close to \$7 billion; our cost of the services that we provide: pension, disability, is another \$2 billion. So that when you start to look at how the costs are set out, there is a significant amount of fixed costs, and in terms of movement activity, new activity, capital cost, you really have the differential between these fixed costs and the revenue that is available to you. The constraint that we have had in the past is based on some of the things we are trying to correct here. When you think that you should have been receiving more revenue, you find out that you cannot, because of the way the system is structured and therefore, what we are seeking to do by this evening's exercise, especially on the supplemental petroleum tax issue, is to deal with those issues.

I am in agreement with the question of sustainable jobs, and the fact that we have to do something differently. I have heard in a lot of instances that we need to put in place more training, and quite frankly, that is our intent. Once again, the implementation is proving to be a bit challenging, but that is our stated policy. The stated policy is that we intend to move people from where they are, to the stage where they can get more of what this economy has available to them.

Sen. Mark talks about the fact that the owners of capital are, in fact, getting wealthier and employees are getting less wealthy, and that is how the thing works. The economic model says that you make money in one of four instances: as an employee; a self employed person; a business owner and an investor. What we are seeking to do is to make more choices available so that people could get on the wealth creation side of the economic divide, and therefore we would have less

poverty. One of the ways, of course, to do that is to deal with the education system and we are doing that.

Sen. Seepersad-Bachan talked a lot about the objectives of the measure, yes, it is internationally competitive; yes, we are trying to get our fair share; yes, we live in a competitive world. The question about proven up reserves, small field allowances, I think that those are matters that the Ministry of Energy and Energy Industries—through its intervention—is dealing with.

I just want to deal with the question of abandonment and a discussion on that measure. The issue was raised, and in looking at it, what we found out is that, allowing companies to claim the decommissioning abandonment cost as an allowance, is not a widely used international practice. The issue was, when funds are placed on an escrow account, no expenditure has been incurred. This is merely a transfer of funds and it is not a good argument for the allowance of costs. What we basically said—and you made the point—is that in the last year when there would not be sufficient revenue, it was agreed that the company can request that the returns for the previous five years of income will be re-opened to allow for the expenditure. So there is the provision inside there.

The question of small field allowances, rebate and those issues. As I said sometime ago, when we looked at the net result and in doing the computation, unless the information that we have is incorrect or unless the information filed with the Board of Inland Revenue does not represent the truth, on the basis of that set of information, our computation is that there should be a reduction in taxes to the tune of 711—

**Sen. Seepersad-Bachan:** From the small operators?

**Sen. The Hon. C. Enill:** Yes, from the small operators. We would continue to meet and talk with them. *[Interruption]* Well, again, I am making the statement based on the information that is available to us. Now, if that information is flawed then we have come to the wrong conclusion. But the assumption that we have made is that the information that they have submitted to the Board of Inland Revenue is correct, and therefore, when we did our analysis on that data, we came up to this conclusion. It is on this basis that we go ahead and look at this thing. It is possible that the information supplied to the Board of Inland Revenue is incorrect. If that is the case then they need to tell us that so we can have a different discussion.

**Sen. Seepersad-Bachan:** They just came from the South Chamber of Commerce.

**Sen. The Hon. C. Enill:** I know, I talk with them every day. I just wanted you to be aware of the fact that we are not crazy, we went and we did the exercise—

**Sen. Seetahal:** You sure? [*Laughter*]

**Sen. The Hon. C. Enill:** Sorry, Mr. Vice-President, wrong choice of words, there are some that will say we are. The thing about it is this, there was a basis under which we did the thing. We looked at the information that we had available to us; we considered the information that we had available to us to be accurate; we used the information; we tested it; we came to the conclusion that there was going to be more cash flow available to them; we thought that that was a good thing; we went and explained it to them; they said certain things to us; we took it into account; we are working on some other things with the Ministry of Energy and Energy Industries and Petrotrin, and we believe at the end of that they should be in a better position. If they are not, then we have a budget coming on in the next two months, we would fix it then. But at this point in time, based on the information that is available to me and based on what I have seen, they should be in a better position. That is what I want to say at this point in time.

**Sen. Seepersad-Bachan:** Just—

**Sen. The Hon. C. Enill:** Where is the \$3 billion to be funded? Stay quiet, I will take it before I sit. The \$3 billion was going to be funded from the receipts based on revenue projections. When we debated the additional \$3 billion of expenditure, what we said was as follows: That we did not reduce any of the allocations that were there before; we took the position that ministries will continue to try to implement, but we also knew that if we did not provide funds by July 15, the Central Tenders Board would basically shut you down, and there would be nothing happening between July 15, August, September, October, until the budget was passed. We thought that this was a mechanism by which we could move the projects forward.

If the money is not spent, it basically goes back to the Consolidated Fund; it increases the balance at the Central Bank or we allocate it to the Revenue Stabilization Fund. We have already said that we would allocate \$1.6 billion, I think it is, or whatever the number is. We are moving to do that and after that if there are still surpluses, then we would determine what we would do. And whatever we do we would tell you, because we cannot do it without parliamentary approval.

**Sen. Seepersad-Bachan:** What about condensate?

**Sen. The Hon. C. Enill:** What are you asking me on condensate? [Interruption] For the purposes of this particular amendment we have determined that the licensee will be the individual who will be considered to have produced the condensate, and we have also determined that—what is that? [Interruption] If the condensate on the line is a different operator—[Interruption] Well, it is either bp or NGC. [Interruption] I do not have the answer to that, but for the purposes of taxation, that used to be an issue, and we have determined that it is not going to interfere with us internationally for our international competitiveness, and that the issue as to who needs to pay taxes on it, we are determining that it would be the holder of the licence. To the extent that we do not know, somebody would make a determination and the Minister of Energy and Energy Industries would deem it—I think he has that power under the Act. It is a technical issue, you are right, and I leave technical matters up to those technocrats. So, Senator, anything else?

**Sen. Seepersad-Bachan:** No.

**Sen. The Hon. C. Enill:** Sen. Prof. Kenneth Ramchand talked about small producers, we dealt with that. He was right about one point though, that organizations come here as investors and they are really concerned with this whole question of return on investment, but I think the Government also has to be concerned that it gets its fair share of the resource that it has been entrusted to manage, over its period of time.

Sen. Ali, small field producers, I have tried to deal with that in some way. In terms of the production-sharing contracts; yes, there was a situation in which we found that there was a contract in which the—you know it—tax could not be paid, and there is a lot of discussion going on now about production-sharing contracts, and our own understanding of it. One of things we found out though, in looking at the production-sharing contracts versus the E&P licences is that, the production sharing contracts in aggregate give us a higher return, because they were being considered on the basis of market price. Okay? That is Sen. Seepersad-Bachan's issue.

Again the retroactivity issue, I hear you. I understand where you are coming from, but we disagree. We really believe that at this point in time this is something that we should do. Insofar as the question that you have raised with respect to a policy statement with the energy sector, I would certainly convey that to appropriate quarters, because I have heard myself, being on the ground, that there are some questions for which the answers are not forthcoming nor are they very clear and I think that is a very appropriate observation.

Sen. Baksh, just in terms of trying to understand again, what you have said about the disability grant, and you know, in some instances you have to help us, because based on the information that we have, we get a different picture, unless again, the information is wrong. For example, in the year 2001, according to the information that is available to us, there were 7,454 recipients of the disability grant, and in 2005, there are now 12,727 recipients, I think that is about a 64 per cent increase. If you can share with us where we do not seem to be at one, we would certainly move to correct that. But again, in a lot of these matters we deal with the information that is available to us and you know, we are always looking for ways to improve our—*[Interruption]* you ready to go home?—delivery.

Sen. Bro. Noble Khan had an issue with the permanent pricing committee and I think I have explained that. I just want to say though, that we are doing an exercise now on pension in particular, Government pensions: old age pensions; the pension liability that exists for Government employees; the question of HIV/AIDS and what that is doing to that thing, and I must tell you the numbers are really scary, because when I looked at the liability that we have on the basis of bad data, it is working out to be something like \$12 billion, just on bad data. It is one of those things we have to deal with. It is an issue that is basically attracting our attention. We are trying to see how quickly we can deal with it but, as you would recognize, it is a complex issue; it involves NIS, it involves the old age pension; it involves private pensions, and it is a really, really, really large exercise, and the real difficulty that we are having in all of it is the data that we have, is not very robust. Having said all of that, on the basis of what I know, I estimate a \$12 billion liability.

So, Mr. Vice-President, I think that we have attempted as far as possible, to deal with the issues raised by Senators. I am extremely happy to have had the opportunity to deliberate on this Bill, and so, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

*Clause 1 ordered to stand part of the Bill.*

*Clause 2.*

*Question proposed, That clause 2 stand part of the Bill.*

**Sen. Enill:** Mr. Chairman, I beg to move that clause 2 be amended as follows:

Delete clause 2 and renumber clauses 3 to 20 as clauses 2 to 19 and Parts III to XVII as Parts II to XVI respectively.

**Sen. Seetahal:** Did you say "and renumbered as Parts II to XVI"?

**Mr. Chairman:** "as Parts II to XVI", that is what I said.

**Sen. Seetahal:** Let us include the word "parts" there. Just for clarity, because everybody is sort of like what—

**Mr. Chairman:** "as Parts II to XVI".

*Question put and agreed to.*

*Clause 2 deleted.*

*Clauses 3 to 12.*

*Question proposed, That clauses 3 to 12 stand part of the Bill.*

**Sen. Enill:** Mr. Chairman, I beg to move that clauses 3 to 12 be renumbered 2 to 11.

*Question put and agreed to.*

*Clauses 3 to 12, renumbered clauses 2 to 11, ordered to stand part of the Bill.*

*Clause 13.*

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

**Sen. Enill:** Mr. Chairman, there is an amendment to clause 13, as renumbered clause 12 which has been circulated as follows:

In subclause 13(b) as renumbered in relation to proposed section 17A of the Income Tax (In Aid of Industry) Act—

- (a) delete the word "2003" occurring in subsection (1) and substitute the word "2004"; and
- (b) delete the word "2002" occurring in subsection (2) and substitute the word "2003".

**Sen. Seepersad-Bachan:** Mr. Chairman, if I could just ask the Minister two questions. I looked at all the various amendments and I note here that you are referring to section 16(2). You are deleting section 17A, then as you go down you are talking about: "on the residue of such expenditure after deduction". Is there a residue, because you have removed all the initial allowances?

**Sen. Enill:** Initial allowance was not removed, it was defined as first year.

**Sen. Seepersad-Bachan:** It was defined as?

**Sen. Enill:** First year allowance was removed, but not initial allowance.

**Sen. Seepersad-Bachan:** Only the first year allowance?

**Sen. Enill:** Yes.

**Sen. Seepersad-Bachan:** But you repealed the whole of 17A.

**Sen. Dr. Saith:** It was double counted.

**Sen. Enill:** It was double counted.

**Sen. Dr. Saith:** They were double counting, taking two allowances.

**Sen. Seepersad-Bachan:** So the first year allowance remains?

**Sen. Dr. Saith:** Initial allowance remains, first year allowance has been removed.

**Sen. Seepersad-Bachan:** First year allowance removed.

**Sen. Enill:** And initial allowance remains.

**Sen. Seepersad-Bachan:** So you still have the residue?

**Sen. Enill:** Yes.

**Sen. Seepersad-Bachan:** Okay.

*Question put and agreed to.*

*Clause 13, renumbered clause 12, as amended, ordered to stand part of the Bill.*

*Clauses 14 to 17.*

*Question proposed, That clauses 14 to 17 stand part of the Bill.*

**Sen. Enill:** Mr. Chairman, I beg to move that clauses 14 to 17 be renumbered as clauses 13 to 16.

*Question put and agreed to.*

*Clauses 14 to 17, renumbered 13 to 16, ordered to stand part of the Bill.*

*Clause 18.*

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



**Sen. Enill:** Mr. Chairman, I beg to move that clause 18 be renumbered as clause 17.

**Sen. Seetahal:** My contention was that we renumber clause 18, I have not heard any response to that.

**Sen. Enill:** Mr. Chairman, the information that is available to me suggests that we have the ability to do this, notwithstanding the Order that was made by the President. I am advised that in this matter Parliament has delegated its law making function to the President and that does not prevent Parliament from exercising this prerogative.

**Sen. Seetahal:** On a point of order, Mr. Chairman, usually if we have done that and you have delegated legislation which is subordinate legislation here, Parliament does not usually, to my knowledge, intrude on that and take it over. Then it should normally go back to the person who made it, which is under section 9(2) of the principal Act, the President. I just do not know why it came in this way. Some of us might find that is a good thing, but since it is against the common practice, it is very unusual to see an Act amending an order, which is made by a person to whom power has been delegated, that is my point.

**Sen. Enill:** Mr. Chairman, we understand that it is unusual but it can be done, and in these circumstances, we believe it is the appropriate thing to do.

**Sen. Mark:** Mr. Chairman, may I say that when the Minister introduced the Finance Bill, I got the impression that the objective was to rectify an anomaly that dealt with taxes for judges. But in a surreptitious way, the Minister moved from taxes to other benefits that were not really contemplated, and when Sen. Dana Seetahal asked whether it only includes taxes, he said no. And I found it a bit strange that the Minister would want to deal with the various provisions under the Privileges and Immunities Act, which include among other things, this question about you cannot take action against an individual in a court of law. What was even more alarming, is that it went back to August 2003.

Now when you are going retroactively, in the face of the information I have provided today, I do not think that this Parliament should give cover to any legislation that would, for instance, allow a person who is currently before a court, that kind of privilege. I think it is wrong in law; it is immoral and I do not think that the Government would want the Parliament to support this particular measure. We would support the question of adjusting and making adjustments in terms of taxes. But when it comes to the other provisions of the law that the Minister is seeking to impose on us, I think we draw the line.

**Sen. Enill:** Mr. Chairman, my comments are as follows. This matter is really within the Trinidad and Tobago jurisdiction, so whatever we do here happens in Trinidad and Tobago only. Secondly, this is in keeping with the agreement that we have in fact been signatories to. What it is simply seeking to do is make this consistent with what should have been at the time the order was signed, and there is no surreptitiousness about it. It is simply a matter of this needed to be done and based on the time frame that was available to us this was an appropriate place to do it. There is nothing surreptitious about it.

**7.40 p.m.**

**Sen. Mark:** Mr. Chairman, what I would like the hon. Minister to tell us is whether this is a matter that is being addressed throughout the region, among members of the CCJ?

**Sen. Gift:** Mr. Chairman, I will attempt to shed some light here on this particular provision and to do so I want to take Members back to a Session when I presented this Bill in the House of Representatives. I was getting some support from my colleague, Minister Imbert, on this question of retroactivity and while the style may be a little different from mine, I think for the record I will read what was said, it begins:

“I heard the Member for Siparia bleating and carrying on like a lost sheep about why we are making this thing retroactive.”

**Sen. Mark:** Mr. Chairman, what is this! [*Crosstalk*] You cannot refer in this Senate—as you know it is a rule and it is a Standing Order—you cannot read or quote within a session of Parliament matters that have been dealt with in another place. That is a Standing Order. [*Crosstalk*]

**Sen. Seetahal:** Mr. Chairman, the Minister is talking about “when he introduced this Bill”. What Bill? Does he mean this Bill?

**Sen. Gift:** No, no. [*Crosstalk*]

**Sen. Seetahal:** He did not introduce the Order, because that Order had to be passed by negative resolution, so it was not introduced. It is some other legislation that he is talking about.

**Sen. Gift:** No.

**Sen. Seetahal:** Which Order? I am looking at 9(2) and it says, “shall be subject to negative resolution of Parliament”. Was that one amended? So it is this

one he is talking about, it is the Order? I just want to get it clear because the Minister said the Bill. We are not talking about this Bill, but the original Order?

**Sen. Gift:** Yes.

**Sen. Seetahal:** Okay, good.

**Sen. Gift:** Are we clear on that now?

**Sen. Seetahal:** I am clear.

**Sen. Gift:** Very good, we proceed then. Let me summarize it because it is relevant.

**Mr. Chairman:** Yes, please summarize.

**Sen. Gift:** The point that was made when this Bill or Order was presented in the other place, was that the document was signed in 2001, as a matter of fact it was signed on February 14, 2001, that was the protocol, establishing the court and granting judicial personality in legal capacity, et cetera. There were two operative dates in the legislation, one dating back to 2001 established upon the signature of the last administration and it was followed by two successive protocols which established the legal capacity of the court.

When we came to the question of the implementation, what we were trying to do at that stage was to harmonize the dates. Since, in fact, the court came into existence, actually before, in the sense that during the 15-month period or so, arrangement had to be put in place for the court; it did not come into being just overnight, automatically. The question was one of harmonizing the dates and that is why you had the 2003 and 2004. In a way, with a degree of retroactivity, it was to legitimize whatever actions were done before to make the court a reality when it in fact, became a reality.

Thank you.

**Sen. Mark:** That does not clear up the air. Mr. Chairman, we are still concerned that that action and decision taken by—you are talking about Caricom Heads on this matter, could not have envisaged this matter where a member of the Regional Judicial and Legal Services Commission would have a matter before the courts of St. Vincent. What I am advancing, if this is a common piece of legislation that could be going throughout the region, then we have to be concerned here that if we give approval to this matter in its current form, that it does not give this individual blanket immunity. That is what I am concerned about. [*Crosstalk*]

**Sen. Gift:** With your permission again, please. Mr. Chairman, I think there is a complete misunderstanding on the Senator's part.

**Sen. Mark:** Yes, tell me.

**Sen. Gift:** The question of privileges and immunities is that it grants these privileges and immunities in the exercise of the official functions. If you went as a diplomat or someone enjoying these privileges and committed a crime, you face the law of the receiver or the host country. If we approve this it does not automatically confer immunity on anyone. Once you break a law you become subject to that law and action will be taken against you accordingly. As a matter of fact, if it came to that, the extreme action is that you are declared *persona non grata*, you lose your immunities and you face the full force of the law. So the notion that if you approve this you will be granting immunity to someone who is embroiled in the court and someone who has committed a crime, that is totally misconceived.

Thank you.

**Sen. Mark:** I am not clear on that at all. I would like a legal interpretation on that one, because he is giving me a diplomatic interpretation. I want a legal interpretation.

**Mr. Chairman:** Sen. Seetahal, do you have any comment on that?

**Sen. Seetahal:** The point is, this really would not affect Justice Sylvester clearly, but the point I think Sen. Mark was asking is whether there is similar legislation existing in St. Vincent and nobody has told us. That is what he wants to know. He said this kind of thing we will be colluding with them, that is what I understand him to be saying. But my understanding of this privileges and immunities legislation is just to confer protection in some kind of suit not only—but that is another point.

**Sen. Gift:** Mr. Chairman, I can only read what is said: “privileges and immunities are granted to officials in the interest of the specialized agencies only, and not for personal benefit or the individuals themselves”. If the gentleman made off with a couple of million dollars that is personal benefit, it is clear here and you are subject to the full rigour of the law.

**Mr. Chairman:** Okay, now that seems pretty clear.

**Sen. Mark:** I am not quite clear.

**Sen. Seetahal:** I have one question. I was waiting for the other point to be dealt with. It is simply this, Minister. It is not really a big deal, but the long title of the Bill does say, “to introduce other provisions of a fiscal nature and for related matters”. Sen. Mark raised the point that this really is not of a fiscal nature, privileges and immunities, so I am wondering what place this has in a Finance Act; that really is my point. [*Crosstalk*]

**Sen. King:** That is what I want to see, let us do clauses 3, 4 and 5.

**Sen. Seetahal:** Do you mean it is tangentially related. No. The Minister would tell me “also included are taxes”, maybe it is convenient for you, but is it right to have it in a Finance Bill? That is the point.

**Sen. Enill:** It qualifies because it is exemption from taxes as one issue and that was the consideration in bringing it here, exemption from taxes.

**Sen. Dr. Saith:** And it includes exemption from taxes.

**Sen. Mark:** How the immunities—Mr. Chairman, if you go to the law—I can get it for you, just bring that law book—you will see a number of other provisions under these schedules and if the Minister is saying this thing is related only to finance, how are we going to justify in this Finance Bill these are the provisions? It does not add up, Mr. Chairman. [*Crosstalk*] No, I think we are on a dangerous path. I think we should delete this entire clause. [*Interruption*] Well, just confine it to taxes and leave out the rest.

**Sen. Seepersad-Bachan:** Why?

**Sen. Mark:** Mr. Chairman, why we cannot do it?

**Sen. Enill:** Mr. Chairman, the configuration in which this is, is the one in which the Government would like support on this particular matter. The facts are, that is here before us, in our judgment at the time it was appropriate, we can basically only support that.

**Sen. Mark:** Mr. Chairman, this is a law making Chamber and it is either we get it right or we do not. I am saying, for instance with the greatest of respect to the hon. Minister, I think that for instance we are going over a cliff here and a barrier that is extremely dangerous.

**Sen. Enill:** Mr. Chairman, with the greatest of respect we do not agree, we think that the amendment here is properly before us and that is our position.

*Question put.*

**Sen. Mark:** No. I need a division on this one, so the country must know that the PNM is part of a conspiracy with the larger Caribbean brothers. I do not think it is a fair—I do not support it.

*The Senate divided:*    Ayes        15        Noes        7

AYES

Saith, Dr. L.

Joseph, M.

Montano, D.

Yuille-Williams, Mrs. J.

Enill, C.

Gift, K.

Manning, Mrs. H.

Chin Lee, H.

Dumas, R.

Abdul-Hamid, M.

Kangaloo, Miss. C.

Sahadeo, Mrs. C.

Ramroop, S.

Hackshaw-Marslin, Mrs. J.

Williams-Smith, Mrs. M.

NOES

Mark, W.

Baksh, S.

Kernahan, Dr. J.

Seepersad-Bachan, Mrs. C.

Augustus, R.

Seetahal, Miss. D,

Cropper, Mrs. A.

*The following Senators abstained:* Mrs. M. King, Mrs. P. Anmolsingh-Mahabir, Bro. N. Khan and B. Ali.

*Question agreed to.*

*Clause 18, renumbered clause 17, ordered to stand part of the Bill.*

*Clause 19.*

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

**Sen. Enill:** Mr. Chairman, there is an amendment on the list of amendments which is to substitute clause 19 as follows:

Notwithstanding any law, Parts VI, VII, VIII and X shall be deemed to have come into operations on January 1, 2004.

**Sen. Mark:** Let me just ask a question before you put it. Could the Minister indicate whether discussions with the so-called stakeholders took place after this Bill was introduced in Parliament or prior to it being introduced in this Parliament, because in the Parliament the date is 2003, yet still you are saying you had discussions with them? Was it before the Bill was introduced or during the presence of this Bill in the Parliament?

**Sen. Enill:** It was both before and after.

**Sen. Mark:** Before and after, that is a very nice way of putting it.

**Sen. Enill:** And it continues even now, because we have the other legislation—

**Sen. Mark:** This is a continuous process.

**Sen. Enill:** Yes.

**Sen. Mark:** I see uninterrupted, work in progress. I got it from the management guru himself.*[Laughter]*

**Sen. Enill:** Mr. Chairman, I beg to move that clause 19 be renumbered as clause 18.

*Question put and agreed to.*

*Clause 19, renumbered clause 18, as amended, ordered to stand part of the Bill.*

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

*Senate resumed.*

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

#### ADJOURNMENT

**The Minister of Public Administration and Information (Sen. The Hon. Dr. Lenny Saith):** Mr. Vice-President, I beg to move that the Senate be now adjourned to Tuesday, July 26, 2005 at 1.30 p.m., at which time we will do Motion No. 1 under Private Business. I believe there is a time line on that and on conclusion of that we will take our August recess.

#### **Port of Spain City Corporation (Inadequate Provision of Tools and Equipment)**

**Sen. Wade Mark:** Thank you very much, Mr. Vice-President. The matter that is before this honourable Senate on the Motion, deals with the inadequate provision of tools and equipment to workers of the Port of Spain City Corporation and the resultant negative impact on the quality of service to the city burgesses.

Mr. Vice-President, workers belonging to a particular trade union, that is the Amalgamated Workers Union, had been engaged in a series of demonstrations outside City Hall between the period June 27—29, 2005. The workers also demonstrated and protested outside the offices of the Chief Personnel Officer, that is 76-78 St. Vincent Street, and this was done on June 30, 2005 as well as July 01, 2005. The purpose of these demonstrations was to highlight a number of grievances which these workers have been experiencing over the last 10—15 years. Some of these grievances and issues had to do with the shortage of roadworthy vehicles at the Transport and Cleansing Department due to the non-receipt of spare parts for repairs and tools to effect the repairs necessary and to do preventative maintenance and the impact this would have on garbage collection, in the particular city of Port of Spain.

We know that Solid Waste Management is responsible for garbage collection in the inner city, such as Richmond to Duncan Streets and Park to South Quay, Port of Spain. But outside of those geographical areas, the city corporation is responsible for the maintenance of cleanliness and sanitation within the boundaries of Port of Spain. What has been happening is that because of the perpetual shortage of tools and equipment these workers have been unable to provide the kind of services to the city burgesses and it is against this background,



I am raising this particular issue. In addition to the absence of tools and the necessary equipment, there is a severe staff shortage at this particular corporation.

Mr. Vice-President, over the last 10 years, 600 workers have been through redundancy, through retirement and have been removed from the labour force. The labour force as at 1995 was 1,300 workers, so between 1995 to the present time some 500—600 workers have been, as I said, retired or they have become redundant in terms of their jobs and there has been no replacement of these workers by the city corporation in the particular instance.

At the same time, what has happened is that the tonnage of garbage within the city boundaries that the city corporation is responsible for has grown tremendously. Here it is you have a dwindling workforce on the one hand and you have large tonnage of garbage, rising continuously and tremendously over the period under review.

Mr. Vice-President, the workers have been grieving for sometime now, as it relates to the failure on the part of the city corporation to agree to a classification of their jobs. They have been working and they have been calling for a job classification for the last 30 years.

**Hon. Senator:** Thirty or thirteen?

**Sen. W. Mark:** Thirty! The classification has been in existence for some 30 years and they have been calling on the city corporation to re-look, revisit and to have a new classification and compensation plan for the workers who are currently working at this particular corporation.

What has happened, is that, nothing has taken place. What I do know, is that they met with the hon. Minister of Local Government at the city corporation sometime on July 01, 2005 and the Minister did in fact, make a number of commitments and promises and maybe he can tell us when he addresses the Parliament how he is going to address some of these issues that I have raised.

Mr. Vice-President, I want to inform you that at the Transport and Cleansing Department, vehicles that come off from the dump are being washed with a garden hose; to tell you for instance, the kind of backwardness that exists in this City of Port of Spain. That is why, for instance, there was a bomb blast in Port of Spain! *[Interruption]* Virtually, they neglect the city. You have people working, collecting garbage, but you know how they have to wash their vehicles? With a hose! Would you believe that these workers they do not have gloves; they are not issued to the workers in a timely fashion. Therefore the absence of gloves and protective gears could contribute a hazard to workers' safety and health.

I appeal to the Minister to intervene, as the Minister with responsibility for Local Government, to ensure that the city corporation has the necessary resources so that it can provide adequate tools and the necessary parts and supplies that are required to maintain the fleet of vehicles that currently are in operation. We believe that, for instance, that if these things are done, it would go a long way in dealing with the issues that I have raised.

Mr. Vice-President, the compound that houses the Western Division, which is at Murray Street, Woodbrook is in need of renovations. We need to bring that particular compound up to modern and acceptable standards. Therefore, I want to urge the Minister of Local Government to intervene to ensure that there are adequate supplies of gears and gloves and the necessary equipment, including as I said, protective gears.

Mr. Vice-President, there is also need for the Minister to look into the issue of the award of contracts. We understand that there appears to be, I do not want to be empathic at this time; I am still gathering my evidence on this one, but we understand that there is a lot of possible corruption taking place at that corporation, insofar as the award of contract/contracts is concerned. I do not want, as I said, to get into the details, I have names of people but I need to investigate this thing a little further and I would not want to really call names at this time. What I would like to advise the hon. Minister, is that there is need for him to investigate or to cause to be investigated, the whole awarding of contracts as it relates to garbage collection in the city of Port of Spain.

### **8.10 p.m.**

There appears to be a conflict of interest between certain bureaucrats within the Port of Spain City Corporation and the awarding of these particular contracts and there are some serious issues. I know he has met with the workers' representative and made certain commitments, but I thought it is obligatory on my part to bring to the attention of this honourable Senate what is taking place with these 900 workers who now operate at the level of the Port of Spain City Corporation.

There are some serious health and safety problems, a shortage of tools, equipment and gear and I believe the Minister ought to be aware of these things and take action. We would also like him to pay some attention to the cries of the workers in terms of the need for a revised classification and compensation plan, given the fact that they have had this plan for the last 30 years. We think there is need for an intervention by the hon. Minister and we hope he will move swiftly.

Mr. Vice-President, I think that the workers of the Amalgamated Workers Union are committed to the burgesses of Port of Spain to delivering efficient and effective services to the people and the burgesses within the boundaries of Port of Spain, but they must have the tools and equipment to do their jobs. Therefore, I am appealing to the hon. Minister to do whatever he can in a country where we have spent over \$90 billion to date and the Government has allocated and appropriated close to \$31 billion.

I see no reason why the Government of Trinidad and Tobago, through the Minister of Local Government, cannot pump a few million dollars into the City Corporation to ensure that the tools and equipment required to provide efficient and effective services to the burgesses of Port of Spain cannot be accomplished, and I hope that the hon. Minister would take to heart my intervention and seek to use his good office, and, of course, the influence of the hon. Minister of Finance to get the necessary resources going to have something done to bring about a certain degree of peace and comfort to the workers so they can better deliver services to the people and residents in the city of Port of Spain.

Thank you very much, Mr. Vice-President.

**The Minister of Local Government (Sen. The Hon. Rennie Dumas):** Mr. Vice-President, I take this opportunity to respond to the Motion before us. I think I will also be remiss not to note that this Motion was a little hastily penned. It was penned on July 01 when the workers in Port of Spain were asking some questions and making representation. I think before the day was out, the Motion had become irrelevant and I thought the goodly Senator might have spared us the time, but I take the opportunity to respond.

The workers were asking for ministerial intervention to have disciplinary action taken against some of their colleagues. I am sure the Senator, given the practice he had as a workers' representative elsewhere, knows that the Minister or the Government could not have made such an intervention. They assured me that all they wanted was two persons fired because they were blaming their colleagues for the absence of the tools and equipment and certainly not the Government.

The workers were aware that the Government has launched a programme that is totally in line with the Vision 2020 programme for a redeveloped and reformed Local Government system, and they assured me, as Sen. Mark is saying, that they are totally in line with this vision and want to get it on but, unfortunately, there are some things as the Minister you are not able to intervene where disciplinary matters concerning the conduct and practice of public officers are involved.

We were able to demonstrate as we would do tonight that the development programme for the Ministry of Local Government, in particular, the Port of Spain City Corporation does not suffer from an absence of resources. In fact, the Government would have moved to provide a change of the presence of resources that would have ranged in almost every item of concern from 20—120 per cent and 150 per cent in some instances. Whether we are talking about the provisions for economic infrastructure, or multisectoral services you will find there are significant increases over the period 2003—2005.

In fact, the Government quite welcomes the Opposition's intervention in Port of Spain because the previous interventions made when they were in office were to strip Port of Spain of the allocations that were previously made, and if there is a deficit in the fleet now, it has to be despite our best efforts we had a little lag to deal with which was dealt with.

The provision of just about \$8.4 million was made for minor equipment purchase for garbage collection this year. In fact, from the fleet of 20 that were there, we ended up with six working items. We have moved on to provide 10 vehicles within this last period. We have therefore increased in reality the number of garbage and dump trucks and there would have been a rejuvenated fleet, and in this case, provision of the funds was in fact, provision of the equipment.

The problem was that the workers were suggesting that there was an absence of activity which is supposed to be within the competence of the engineer, the store managers and those responsible for maintenance of the vehicles, like the example you used with the hoses, and those matters have been addressed to the satisfaction of the representative of the workers.

All the matters they raised have been addressed. In fact, with regard to the question of the establishment at the meeting, the workers assured us that the establishment was just on par, they had no set of workers who were eligible to be on the establishment who were not promoted and provision was made to have ancillary workers brought in. Where there was a possibility that they needed support of contracted services the provision was there. The conclusion that one could have come to at the end of the discussions was that there was an internal problem between the workers and steps have been taken to deal with that.

I want to assure the Senate that the issue of the reclassification and establishment could not be resolved in the short term because the work practices, equipment and the structure of work that were set up, as you said 30 years ago, certainly could not be relevant today and, therefore, there is a need to go further

than that and redesign the work systems so we can have an agreement on how we move forward. That has been agreed to by the union and is in process.

With respect to the question raised under the issue of the job classification process, of course, there must be work design before you can classify and then set a compensation system, and the workers have agreed that these processes are in order, and agreement as to the start date of those discussions, and the procedures they would use.

I assure you that these matters are all well in hand, and thanks for the opportunity.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 8.20 p.m.*

#### **WRITTEN ANSWER TO QUESTION**

*The following question was asked by Sen. Wade Mark:*

#### **HIV/AIDS (Government's Intention)**

- 17.** (a) Could the hon. Minister of Health state whether the Government intends to take steps to make HIV/AIDS a notifiable disease especially in light of recent international reports on the high incidence of infection in Trinidad and Tobago;
- (b) Further, would the Minister state whether it is the intention of this Government to provide hospices for the care and treatment of patients who have tested positive for HIV/AIDS; and
- (c) Could the Minister also state whether the Government is prepared to establish a policy to govern behaviour towards persons with HIV/AIDS in the workplace?

*The following reply was circulated to Members of the Senate:*

#### **The Minister of Health (Hon. John Rahael):**

- (a) The Public Health Act of Trinidad and Tobago states that the President may, by proclamation, declare any disease to be an infectious disease or a dangerous infectious disease. These infectious or dangerous infectious

diseases—suspected or diagnosed, must be notified to the Medical Officer of Health of the district.

A notifiable disease is one that is considered to be of such importance to public health that its occurrence is required to be reported to public health authorities.

The Advocacy and Human Rights Sub Committee of the National Aids Coordinating Committee is working with the office of the Attorney General, in examining all the legislation in relation to HIV/AIDS. This will result in draft legislation that will take into account the policy directives of the Caribbean Cooperation in Health II and ensure the Human Rights of people living with HIV/AIDS and those affected by HIV/AIDS. One of the areas being examined/addressed is that of legislating that HIV/AIDS become a notifiable disease. Discussions are at present being held with stakeholders.

- (b) A Hospice is a place that provides care for the terminally ill. The Government of Trinidad and Tobago is providing anti retro-virals free of charge to all persons who have tested HIV positive and meet the criteria for treatment, hence HIV positive patients can now live—there is life after the diagnosis. The figures over the last four years show a decline in the number of AIDS cases and deaths.

	2001	2002	2003	2004
AIDS cases	467	418	309	246
AIDS Deaths	262	240	166	128

The ongoing expansion of the Voluntary Counselling and Testing Services will allow persons to know their sero status earlier thus allowing persons to access care and treatment earlier rather than later. At present there are day-time drop in centres run by NGOs such as the South AIDS Support Centre where people living with HIV/AIDS are offered care and support. Currently, the need for a hospice is being looked at and proposals have been submitted by NGOs. The Ministry of Health and the National AIDS Coordinating Committee are examining these proposals. The universal availability of anti retro-virals in Trinidad and Tobago will eventually lead to improved treatment and care.

- (c) An Extended Tripartite Committee comprising the ILO, Employers Consultative Association, Ministry of Labour, the National AIDS Coordinating Committee and the office of the Chief Personnel Officer has developed a draft Code of Practice on HIV/AIDS and the World of Work. The objective of this code

is to provide a set of guidelines to address the HIV/AIDS epidemic in the World of Work within the framework of the promotion of decent work.

The guidelines cover the following key areas of action:

- (a) Prevention of HIV/AIDS;
- (b) Management and mitigation of the impact of HIV/AIDS on the world of work;
- (c) Care and support of workers infected and affected by HIV/AIDS;
- (d) Elimination of stigma and discrimination on the basis of real or perceived HIV status.

The ILO is also working with the Private Sector to help develop the capacity within enterprises to address the workplace issues on HIV and AIDS. The Chief Personnel Officer has also developed draft guidelines for managing HIV/AIDS in the Public Sector.

In 2003, the Ministry of Health initiated a process to develop a draft national policy document on HIV and AIDS. The National Aids Coordinating Committee is currently in the process of using this initial work to draft a National HIV/AIDS policy document, which will cover policies under each of the five priority areas reflected within the National HIV/AIDS Strategic Plan as indicated hereunder:

- Prevention
- Treatment, Care and Support
- Advocacy and Human Rights
- Surveillance and Research
- Programme Management, Coordination and Evaluation

Policies under these areas will address issues dealing with people living with HIV/AIDS.