

Leave of Absence

Monday, June 23, 2008

SENATE

Monday, June 23, 2008

The Senate met at 1.30 p.m.

PRAYERS

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

LEAVE OF ABSENCE

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. Subhas Ramkhelawan for the period June 20, 2008 to July 03, 2008 and Sen. Dr. Adesh Nanan who is ill.

SENATORS' APPOINTMENT

Mr. Vice-President: Hon. Senators, I have received the following correspondence from His Excellency the Acting President, Sen. The Hon. Danny Montano:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency DANNY MONTANO, LLB.,
BComm., C.A., Acting President and
Commander-in-Chief of the Republic of
Trinidad and Tobago.

/s/ Danny Montano
Acting President.

TO: MR. NICHOLAS GALT

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

NOW, THEREFORE, I, DANNY MONTANO, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NICHOLAS GALT, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Subhas Ramkhelawan.

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 20th day
of June, 2008.”

Senators' Appointment
[MR. VICE-PRESIDENT]

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“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency DANNY MONTANO, LLB., BComm.,
C.A., Acting President and Commander-in-Chief of
the Republic of Trinidad and Tobago.

/s/ Danny Montano
Acting President.

TO: MR. RYAN SPICER

WHEREAS Senator Dr. Adesh Nanan is incapable of performing his duties as a Senator by reason of illness:

NOW, THEREFORE, I, DANNY MONTANO, Acting President, as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, RYAN SPICER, to be temporarily a member of the Senate, with effect from 23rd June, 2008 and continuing during the period of illness of the said Senator Dr. Adesh Nanan.

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 20th day
of June, 2008.”

OATH OF ALLEGIANCE

Senators Nicholas Galt and Ryan Spicer took and subscribed the Oath of Allegiance as required by law.

**CHILDREN'S COMMUNITY RESIDENCES, FOSTER HOMES
AND NURSERIES (AMDT.) BILL**

Bill to amend the Children's Community Residences, Foster Homes and Nurseries Act, 2000, brought from the House of Representatives [*The Minister of Social Development*]; read the first time.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Wade Mark:

**Volvo Engineers
(Report of Accident)**

- 48.** Could the hon. Minister of Works and Transport provide the Senate with a copy of the report from the Volvo engineers in respect of the accident

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involving the articulated bus owned by the Public Transport Service Corporation?

Vide end of sitting for written reply.

**EQUAL OPPORTUNITY LEGISLATION
(OPERATIONALIZATION OF)**

Sen. Wade Mark: Mr. Vice President, I beg to move the following Motion standing in my name:

Whereas section 4 of the Constitution of the Republic of Trinidad and Tobago provides for all citizens the right to equality of treatment from any public authority in the exercise of any function and the right to equality before the law and the protection of the law;

And whereas both Houses of Parliament have already passed into law the Equal Opportunity Act;

Be it resolved that the Senate call on the Government to take immediate steps to have the Equal Opportunity Legislation fully effected, implemented and operationalized in the Republic of Trinidad and Tobago.

Before I get into the meat of this very important Motion, I want to alert my senatorial colleagues that the original Motion was amended with your approval and had to do with the fact that in my original Motion, I used the word “proclaimed” but that had already taken place, so it was redundant. I have included the word “operationalized” in the legislation. I want to inform my hon. colleagues of what led to the amended Motion that is now before this honourable Senate.

As you are aware, development is only possible in a plural society like ours, when the people are united, fully mobilized and disciplined, but in order to unite there is need to promote equality. Unless there is equality of opportunity in our society and nation, the country would not go anywhere fast. This is one of the reasons that we on this side are moving this very important Motion aimed at encouraging and persuading the Government of the need to be law abiding and not to be lawless.

Therefore, I say from the very outset that one of the greatest challenges facing humankind today is its inability to manage diversity. Wherever we have conflict in the world, we find popping up this question of the inability of government and mankind to manage diversity. As you know, diversity represents strength not weakness, not division but strength. Whether that diversity is based upon a difference of ethnicity as in Rwanda and Burundi; whether it is based on a difference of religion as we have witnessed in the conflict between Christians and

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Muslims in Nigeria, Indonesia and Lebanon or whether it is based on race as we have seen in the United States where Dr. Martin Luther King, Malcolm X and a number of very powerful civil rights leaders had to wage relentless struggles, so that the ordinary black Afro-American population can have equal rights as their white counterparts. That is the challenge we face in the world and a problem and challenge we face in our country. It is the inability to manage diversity.

Distorted development which is what is in practice and motion in this country today is laying the basis for greater marginalization and a greater division between those sections of the population and the elite and sometimes within and between sections of the population.

I refer to the Report of the Law Commission of Trinidad and Tobago in its working paper on equal opportunity legislation dated January 17, 1996. Page 1 of that working paper states:

“In a society rich in diversity such as ours, it is important to safeguard the integrity of different races, social groups and men and women from unjust and unequal treatment and the denial of equal opportunity. Equally important is the need to arrest institutionalized and historically entrenched patterns of discrimination all of which are evident in Trinidad and Tobago society in varying degrees.”

This was the Law Commission in 1996 reporting on a working paper on equal opportunity legislation and why there should be equal opportunity legislation in the Republic of Trinidad and Tobago.

We on this side submit that discrimination constitutes a virtual crime against humanity. It was Nelson Mandela, that living legend of the 21st Century who remarked: Discrimination is the greatest blight that could have happened to mankind.

1.45 p.m.

It is in this context and against national, regional and global experiences that it has become necessary to adopt measures and to take steps to manage our diversity, since the danger always lurks that our society could degenerate to the levels of conflict that have occurred in other parts of the world.

It was the former Prime Minister and the current Leader of the Opposition, hon. Basdeo Panday, who reminded us:

“One cannot legislate love, nor justice, nor goodness, nor truth, nor equality, nor fairness, but certainly one can legislate against injustice, against unfairness, against inequality and make these practices sanctionable.”

Mr. Vice-President, it is against this background that I would like to address the need, not to proclaim the Equal Opportunity Act—that has already been done—but to advise you that the Privy Council, in a ruling handed down on October 15, 2007, directed this Government, almost instructed this Government, to take all the necessary measures to operationalize the Equal Opportunity Act of the Republic of Trinidad and Tobago.

This Motion is about giving full effect to the implementation, the application, the operationalization of this Act and bringing to bear in all the circumstances the critical resources, in order to allow access to justice, and to bring an end to decades, if not centuries, of discrimination against the people of this nation.

In the Republican Constitution, section 4 says:

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

Sections 4 and 5 outline those fundamental human rights and freedoms.

Let me, just for the record, outline for this honourable Senate, these fundamental rights and freedoms that the people of this country enjoy.

“(a) the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law;”

That is an important right that leads to discrimination and I will highlight examples of discrimination against the people of this country by the Government of this country.

“(b) the right of the individual to equality before the law and the protection of the law;”

That is more observed in the breach than in the practice by this Government.

“(c) the right of the individual to respect for his private and family life;

(d) the right of the individual to equality of treatment from any public authority in the exercise of any functions;

(e) the right to join political parties...;

(g) freedom of movement;

(h) freedom of conscience and religious belief and observance;

(i) freedom of thought and expression;

- (j) freedom of association and assembly; and
- (k) freedom of the press.”

I now see this under attack by the Minister of Health, who has brought very backward and reactionary regulations to prohibit public officers or people under the RHA from speaking to the media. We will deal with that on another occasion. This country is going backwards under this administration.

In the *Newsday* editorial today, page 10, the headline is: “Freedom shut down in this country”, and you are leading the pack. [Interruption] I know you like to enter pacts. You are notable for that.

Mr. Vice-President, it does not make sense having a set of rights and freedoms enshrined in our Constitution and the people are unable to enjoy those rights. What sense does it make having in our Constitution the right to equality of treatment, the right not to be discriminated against by reason of race, origin, colour, religion or sex, but it is not translated into action or reality? If there are no institutions available to give effect to some of these fundamental rights, they become meaningless. The Constitution was created by man and it is left to governments therefore to take steps to ensure that institutions are created in order to give effect to the rights of the people.

This is what the UNC did in 1999 when it introduced, debated and passed, in both Houses of Parliament, the Equal Opportunity Act. We were creating the necessary institutions to make the people's rights a reality; not just in the Constitution, but to have it realized in practice; to make the right to equality of treatment meaningful. In the UNC, while we were there, we created institutions by this legislation, which would make the right not to discriminate against anyone meaningful and real. This legal framework provided a legally enforceable right of redress to persons who were and are discriminated against by individuals, either in the private sector or the public sector.

For example, if the discrimination relates to employment, education, the provision of goods and services or accommodation, as stated in clause 4 of the Act, as well as discrimination on the grounds of status as defined in clause 3 of the Act; in relation to sex, race, origin, ethnicity, religion, marital status and disability; all these measures were violently opposed by the Government opposite and they constantly and consistently undermined, subverted, contaminated and almost sabotaged efforts at bringing into being this very important piece of legislation, which is a human rights instrument for the poor and ordinary people of this country.

The Act does not only address discrimination against individuals, but also provides protection against victimization. For example, if a person is being victimized because he has given evidence to assist someone who has been discriminated against, or he has brought proceedings against the discriminator, that person will be protected under the legislation which we brought and which was assented to and proclaimed in 2000.

The question is: Why would this Government be so violently opposed to equal opportunity legislation? The Equal Opportunity Act is one of the most progressive pieces of social legislation ever introduced and effected in the Republic of Trinidad and Tobago since constitutional Independence was secured in 1962, some 46 years ago. Why would the Government consistently oppose progressive legislation which gives greater rights and access to justice to the ordinary people of this country? I will demonstrate later in this contribution living examples of discrimination by this Government against its own supporters and against those they consider their enemies, who must be destroyed.

It is now fully and factually established that when in opposition between 1995 and 2001, the then PNM, under the leadership of the Member for San Fernando East, opposed and voted against, not only the Equal Opportunity Act—that is on public record—but also any measure to enhance the human rights of the citizens. Any measure to promote proper governance in our country, the PNM opposed.

The PNM opposed the Freedom of Information Act. Today, they have undermined it by exempting several companies from being accessible to the population in terms of information. They opposed the Constitution (Amdt.) Act establishing joint select committees. Today, we are almost seven months into the parliamentary term and no joint select committee is functioning. When we were there, they functioned immediately after an election; one month after election. This Government has been in power for seven months and it has shut down the joint select committees.

This Government voted and opposed the Judicial Review (Amdt.) Act to give ordinary people the right to take their matters to court against the State. They opposed and voted against the Occupational Safety and Health Act, not once, but twice. That Government did that.

2.00 p.m.

They opposed and voted against the Constitution (Amdt.) Act, aimed at implementing and speeding up the death penalty in this country. The PNM voted

against that. These are merely a few of the critical pieces of legislation that this Government opposed.

I want to remind you, if you are not aware, that this regime, the PNM Government, sought and attempted to introduce—I exposed the PNM in this Parliament—and impose on this country, what they called affirmative action. This Government was legislating the promotion of racism in this country and it was exposed in this Parliament. I want to tell you what they did under a document that was tabled in 2004—2006 called the *Social and Economic Policy Framework Matrix*, under the heading of Human Capital Development, Policy Areas and Objectives. Hear what one of their principal strategies and measures was. This is to show you the racist content of this administration. Hear what they said in writing and when I exposed them, they back-pedalled. Today Dr. Rowley is telling the whole country that it was a policy of the PNM and they set him up like they have set up the President who is now acting. Hear what they said in this document, Sir. This is black and white Sen. The Hon. Hazel Manning.

“Established targeted recruitment programmes for male Trinidadians age 17 to 24, especially Afro-Trinidadian males...”

This was in black and white. For the first time in an independent country, the PNM Government was legislating race. When we expose them in this Parliament, they did the honourable thing. They said that it was a mistake and they pulled it back. It was a mistake, they claimed. That is what they said.

I want to let you know, a little later, the case of Dr. Rowley. He did see it as a mistake. Dr. Rowley, at that time, viewed it as a policy of this Government, which I shall share with you in a short while. That is only one aspect of racism being practised by this Government that says it is about unity and equality of treatment. That is in black and white for the world to see.

It must also be noted that there exists a chronology of events leading to the enactment of the Equal Opportunity Act. It was only as a result of a decision of the Law Lords of the Privy Council. God help us; let us always remain with the Privy Council as long as the PNM is in Government. We must never abolish the Privy Council once Patrick Manning, the hon. Prime Minister, and his team—I almost said gang—are in office. It was the Privy Council, after this matter was taken to the court in this country, with Gregory Smith, the judge that ruled the equal opportunity unconstitutional. We took it to the level of the Court of Appeal. Former Chief Justice Sharma, the present Chief Justice, Ivor Archie and a judge called Mendonca all ruled against the Equal Opportunity Act and deemed it

unconstitutional. It was the Law Lords of London who sat on this matter and who, when they examined the arguments and looked at the Constitution of our country, indicated in a written judgment that the Equal Opportunity Act was valid, legal, lawful constitutional and must be implemented by this administration. That is what the Law Lords said. Today, we have the Equal Opportunity Act in full, but not as we would like it. That is why this Motion is here today.

It was always the dream of the former Prime Minister and Leader of the Opposition, who has struggled and fought for almost 43 years of his political life, to ensure that there is genuine equality and justice for all the citizens of this Republic. Hence the reason it was the UNC, since the days of the ULF, which always advanced the need for equal opportunity legislation. When we got into power in 1995/1996, we did what we had promised the population and brought the Equal Opportunity Act into being. It was a major driving point of his political life and career to establish and to have enacted the Equal Opportunity Act.

This struggle for an end to discrimination found manifestation in a minority report of the Hyatali Commission of 1987, which reported in 1990 and suggested the establishment of an equal rights or equal opportunity commission. This was strongly advocated at the time and it manifested in a minority report by former university lecturer John Le Guerre who is now the Chairman of the Equal Opportunity Commission.

With respect to this paper I mentioned earlier, the Law Commission of Trinidad and Tobago surveyed a number of countries with similar legislation. It was subsequent to that paper being tabled in the Parliament, that the Government proceeded to establish a joint select committee, under my chairmanship, to look at the possibility of effecting into legislation the equal opportunity law of this country. After exhaustive deliberations and consultations, a Bill on equal opportunity was formulated, debated, passed, was assented to and finally proclaimed. However, the Government opposite opposed the legislation and bluntly refused to implement the law. This is where the Civil Rights Association, based on submissions made by citizens, took the matter to the court. I have given a history of what happened at the level of the Privy Council.

The Law Lords of the Privy Council, the Judicial Committee of the Privy Council, were highly critical of this backward administration that we are saddled with in this country. The Law Lords said, on page 16, paragraph 37 of their report, I have a copy of the report.

“In closing...”

This is the Law Lords of the Privy Council.

“the Board would respectfully invite consideration by the Trinidad and Tobago authorities of the procedure to be adopted where a duly enacted statute is believed by the government of the day to be unconstitutional.”

They believed that the law was unconstitutional.

“The legislation may in such circumstances be repealed...”

If you believe it is unconstitutional, take steps to have the law repealed.

“or a procedure devised to seek the opinion of the court...”

Go to the court. No Sir, they did not do that. The Law Lords went on to say:

“It is not a desirable practice to leave the statute unimplemented until action is brought against the government by a private complainant seeking an order against the government to implement the statute after a delay of some years.”

This law was passed in 2000. The PNM, in conspiracy with the former President, 18/18, were parachuted into office in December 2001. They sat on their laurels for several years and did nothing about the law. Imagine a law was duly passed, assented to and proclaimed and this Government that talks about law and order refused to implement and operationalize a law that was duly passed, assented to and proclaimed in this country.

Mr. Vice-President, the Law Lords of the Privy Council recorded a damning indictment against the Government, particularly the Attorney General. Not this one who is here; the one they have just given a big posting in London; the man whom Dr. Rowley has gone on record as saying is unfit to be our High Commissioner. He has a lot of questions to clear up on his role with the Chief Justice imbroglio/fiasco. He has to clear the air on that. Dr. Rowley is calling on this new High Commissioner to tell the country what his role was in the matter involving him and the Integrity Commission, but he is now the new High Commissioner. Madam Attorney General, I want to advise you, “When dey have no more use for you dey would send you like Glenda Morean to England.” They have sent John Jeremie. You are next in line. I do not know where you would go. They might send you to Nigeria or Zimbabwe. I do not know where they would send you. *[Interruption]*

Sen. Annette-George: And you would protect my interest.

Sen. W. Mark: I would always do that. I want to indicate to you that this matter of the Privy Council's judgment really demonstrates the inability of this Government to act on behalf of the citizenry in a fair and just manner. There are so many instances of the Government's discrimination against the people of this Republic. Maybe I would outline a few in the time I have before me.

Instead of implementing the Act, the Government, guided by the former Attorney General, proceeded to introduce a new Act. They brought a new Act to the Parliament in 2007. They said that the Act required a special majority. They introduced a new clause in that Bill, clause 33, which was oppressive. It was so oppressive to ordinary people's interest and what the Act was designed for, it is incumbent upon me to read that clause for the record of this Parliament. Under our Act, any ordinary citizen, without employing a lawyer, can submit a complaint to the Equal Opportunity Commission, at no cost. Whether it is frivolous or vexatious, it did not matter. The Commission will so advise those complainants. Do you know what this vicious, anti-democratic, anti-human, and anti-rights Government did when they introduced this Bill in 2007?

2.15 p.m.

Hear what it says in clause 31:

"A person who submits to the Commission a frivolous and vexatious complaint commits an offence and is liable, on summary conviction, to a fine of one hundred thousand dollars and to imprisonment for two years."

Imagine, people are fighting for equal opportunity, and they have lodged complaints with the Equal Opportunity Commission, and hear what this oppressive Government introduced in a Bill that was tabled in the 8th Parliament. If the commission believes that your complaint is frivolous and vexatious, you would be fined "one hundred thousand dollars and to imprisonment for two years". This is democracy!

That is why I am not surprised that the newspapers are now exposing the Government: "Freedom shutdown". You all are about to shutdown the freedoms of the people! But I want to warn you, with all the army in the world, you all would not be able to suppress the aspirations and the dreams of the people for a just, fair and genuine society. You all would be run out of office and run out of town long before it takes place.

Mr. Vice-President, nothing of the kind existed in our law. The Act provides for an Equal Opportunity Commission as well as the Equal Opportunity Tribunal. This Equal Opportunity Commission would be comprised of five commissioners

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appointed by the President, after consultation with the Leader of the Opposition and the Prime Minister. There is a procedure outlined in the law for lodging complaints. This is all about discussion, debate, conciliation, negotiation and arbitration in a non-adversarial environment or setting.

Mr. Vice-President, then there is the Equal Opportunity Tribunal which is made up of a judge of equivalent status to a High Court judge; two lay-assessors who would assist the judge and their functions and duties are outlined. All these things have been outlined in the law.

Since October 15, the Government has been dragging its feet on this matter. Do you know what the Government did to mamaguy the country? They appointed the commission. There was an article in the newspaper outlining the members. I saw it in the *Newsday* dated Tuesday, April 22 where there are five commissioners: the chairman is Dr. John La Guerre; you have Dr. Hamid Ghany; Dr. Eastlyn Mc Kenzie, former Senator; Stephanie Daly and Beverly Ann-Marie Beckles. This was in the *Newsday* on Tuesday, April 22, 2008 on page 8.

This Government appointed the commission seven months after the decision of the Law Lords. All they have done is name these people. I want to ask the Attorney General who is responsible for the Equal Opportunity Commission: Is there an attempt to sabotage its operations? Is the Government seeking to subvert, contaminate and strangulate this particular commission? People are suffering in this country because of the Government's discriminatory practices.

People do not know where to go! Could the Attorney General tell us where the official office of the Equal Opportunity Commission is located in this country? Do not tell me that it is in your office! We want an official building, just as the Prime Minister has an official residence. We want an official building for the Equal Opportunity Commission and tribunal.

Mr. Vice-President, where are the funds to resource this commission and tribunal? Maybe I could ask the Minister in the Ministry of Finance who has no problem in finding \$500 million to buy a private jet for the Prime Minister. [Interruption] He was able to find money to locate it there, but I want him to find money to resource the Equal Opportunity Commission and the Equal Opportunity Tribunal. What is the priority? Is it the palace of a Prime Minister for \$148 million? Is that the priority or is it the rights of the people?

I would like the hon. Attorney General of this country to tell us when is the Government going to deploy human, technical and financial resources to get this

commission up and running. It appears that the Government is committed to starving the Equal Opportunity Commission and its tribunal of resources. Why is the Government not taking steps to address the matter of resources?

We are told in the Act what the Government has to do. It is clear that there is need for the commission to have a registrar; they must have staff; they must have an office; they must have the necessary material and research staff; they have to produce brochures; and they have to educate the population. Where are the resources to get those particular institutions functioning? I believe that the Government is playing a delaying game. This Government is against the Equal Opportunity Commission.

Mr. Vice-President, if you believe what I am saying is untrue—that this Government is opposed to the Equal Opportunities Commission—I just want to draw your attention to a situation involving the Maha Sabha. If you wanted a case of flagrant and blatant discrimination by a Government against its citizens, this Maha Saba Privy Council judgment which was issued on July 04, 2006 tells a whole story about discrimination by this Government.

This Government gave to Louis Lee Sing of Citadel a licence for a radio station in a quick time. Do you know what the former Minister of Science, Technology and Tertiary Education told the court? He said that they applied on August 02, 2001. But do you know what? The evidence revealed that it was not August 02, 2001, but it was really August 28. So, I know that you do not like the word “lie” but they were talking untruths. They went to the court and they told untruths. It is here in black and white.

So, they discriminated against the Maha Saba who had applied for a licence since 2001 and it fell to the PNM Government to address this matter and they did not address it. They misled the Court of Appeal on two occasions. They had the Court of Appeal operating under false apprehensions. In other words, the former Attorney General misled the Court of Appeal on two occasions. It is here in the judgment.

On page 17 the court says:

“There was unexplained and unjustified discrimination in favour of another applicant, Citadel.”

It is here! So, I am not talking about discrimination. It is the Privy Council that is saying that Government discriminated against people in this country. At the end of the day, hear what it says on the last page:

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“It is through no fault of the Court of Appeal and highly regrettable that the Court of Appeal was allowed to proceed on false premises. It is in the light of exceptional circumstances not revealed to the Court of Appeal that the Board concludes that the appeal should be allowed.”

In other words, this Government—I know you do not like the word “lie”—told untruths. Do you know who was responsible for that? Mr. John Jeremie who is now our High Commissioner in London. The representative from the Attorney General’s Office was embarrassed. He said that it was unusual and unsatisfactory; this development that took place in the Privy Council where they told untruths to the Court of Appeal, and let the Court of Appeal make decisions on false premises. So, as an example, they discriminated against the Maha Saba.

I want to deal also with the Minister of Local Government, Sen. The Hon. Hazel Manning, but she is not here. In the *Newsday* dated Monday, June 16, 2008 there is a headline: “Hazel wants P/Town North for PNM”. This hon. Minister—unlike me, I contested, but I was not successful, but I faced the people—never contested an election, and she is down as a coordinator in Princes Town North where there is a duly elected representative. Hear what she is telling the country. This is a good case for the High Courts in this country. If there is any example we wanted to show the country and the world that the PNM is using its housing policy to voter-pad and undermine constituency in this country, the Minister of Local Government, Sen. The Hon. Hazel Manning told it all to the world. Hear what she said:

“Local Government Minister Hazel Manning has signalled her intention to work towards bringing the Princes Town North constituency under PNM control come the next General Election.”

She is the party coordinator for the area. This hon. Minister who has no status in that area said:

“Some of the projects she intends to initiate in the constituencies will include installation of more fire hydrants, improved drainage, street light installation and construction of a dam...”

That lady is very powerful! She is not a representative, but she is bypassing the elected representative and going behind the back of the representative and doing these things.

It goes on:

“Manning who has an office in the north constituency announced that she had received 4,475 requests for government housing and has since invited members of

the Ministry of Housing and the Housing Development Corporation, to meet weekly at her office, to discuss the constituents' request."

It went on further:

"However, Mrs. Manning lauded current housing schemes in the Glenroy, Buen Intento settlements, which saw some 450 homes being constructed."

Hear this one:

"She promised that 2,500 houses in Fairfield and Brommage Estates would be constructed in the next financial year."

If we wanted evidence that the Government is using the State resources to undermine the democracy of our country—they are using state resources to build houses and not to satisfy the needs of the people. Do you know what? Hazel wants Princes Town North for PNM. That is what she is doing.

2.30 p.m.

That is illegal. There is a person serving a jail sentence right now in London for this. The housing policy of the Government is discriminatory. They are using housing to voter-pad and they are using housing to ensure that they penetrate UNC constituencies to undermine the democracy of this country. That is what they are doing. You know, they do not want to give you names of applicants; names of people who get houses in this country.

Hear what this Minister told the country. This hon. Minister received almost 5,000 applications. I would have liked to see those 5,000 applications—4,475 applications—that Mrs. Hazel Manning, hon. Minister of Local Government received from the people of Princes Town North. If that is not discrimination, I do not know what is. Why is this Government discriminating against Indo-Trinidadians? Why is this Government discriminating against Afro-Trinidadians? If you apply for a job and you are from Caledonia, John John, Sea Lots, Morvant, as the case may be—Never Dirty in Morvant, as an example—as soon as the employer in the private sector receives your application, you could be bright as a bulb, they are not acknowledging. This is what this law is about. This law is to give the ordinary PNM person the right to appeal; to lodge a complaint; to say that they have been discriminated against on the grounds of where they live—geographically, they live in Never Dirty or Sea Lots or John John or Caledonia—and on that basis, they cannot get a job.

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They must be able to go to the Equal Opportunity Commission and lodge a complaint; not to come to Sen. Dr. Saith and say, look they did not offer me any job. What Sen. Dr. Saith could do about that? Or you go to the hon. Mariano Browne. What can he do about that? You need institutions to give the people justice in the country; that is what you need. But the PNM is not about institutions, Sir. The PNM is about practising discrimination against; not only Indo-Trinidadians, but against Afro-Trinidadians. Their own supporters are being discriminated against by the PNM. Why do you think they do not want this Act effected, because the number of complaints we will take up on behalf of PNM supporters, for the first time they would get justice as they have never gotten before.

I want to turn to an article in today's *Guardian*, page 9, "UWI Lecturer, Racial Divides destroying Trinidad and Tobago". Remember our Prime Minister? You know how he described Petrotrin? He described Petrotrin as "Petrosingh", when he was the Leader of the Opposition. And as soon as he became the Prime Minister of this country he got rid of all the Indians in Petrotrin at the higher levels, and those who were able to stay just remained by the skin of their teeth. Why did the Prime Minister go on record as describing Petrotrin as "Petrosingh"? What was the coded message there? Why would you want to describe a State company that is owned by the people of this country, as "Petrosingh"? A Prime Minister is on record as calling a State company "Petrosingh", and when he came he engaged in ethnic cleansing at "Petrosingh"; now it is Petrotrin once again.

In other words, Mr. Vice-President, the citizens of this country will have equal rights; some are more equal. It reminds me of *Animal Farm*, Mr. Vice-President; Sen. Dr. Saith, *Animal Farm*; "some are more equal than others" in this country. How can you build a country, build a civilization, promote democracy and promote equality, when you are dividing the nation? And that is what the PNM has been doing. That is why the country is going backwards, Sir; it is not going forward.

Mr. Vice-President, a lecturer headline, "Racial Divides destroying this country". If I may quickly deal with a few matters before I close in the next two minutes. I would like to call on the Government to take immediate steps to address the problems faced by this commission. I want to call on the Attorney General to provide the necessary infrastructure and personnel to operationalize and give effect to the provisions of the legislation establishing the Equal Opportunity law of this country, Commission and Tribunal.

I would like to call on the Attorney General to establish appropriate offices, both on a centralized basis and a decentralized basis. I would like to call on the Attorney General to employ adequate, properly remunerated and professionally qualified members of staff to support the work of the Commission. I would like to call on the Attorney General to take urgent and immediate steps, through the Judicial and Legal Service Commission, nudge them, to appoint the chairman of the Tribunal and to take measures to ensure the two lay assessors are in fact engaged.

I would like to call on the Attorney General to ensure that sufficient and adequate financial resources are put in place for both the Commission and the Tribunal. I would like to call on the Attorney General to ensure that the provision of funding to the Commission is done in such a way that they can engage in a nationwide education publicity and awareness in respect of the procedures in accessing justice and lodging complaints with the Commission.

So, Mr. Vice-President, we would like to suggest in closing, that this is a very important piece of legislation aimed at promoting justice and equal access to all of the people. It is designed to promote equality of opportunity. I would like to call on some of these commissioners who have now been appointed, to be very careful. We have the chairman and the deputy chairman; they have columns in the newspapers, I respect that, but you have to be very careful when you hold such sensitive positions as chairman and deputy chairman of a commission, you have to be seen to be fair, because people are coming before you, and if you are making statements that are giving people the wrong impression, it could be dangerous. So, I am just saying to both Dr. La Guerre and Dr. Hamid Ghany, they need to be very careful what they say in their columns and what they say publicly.

Mr. Vice-President, I beg to move.

Mr. Vice-President: Do we have a seconder?

Sen. Dr. Jennifer Kernahan: Mr. Vice-President, I would like to second the Motion and reserve my right to speak.

Question proposed.

Sen. Dana Seetahal SC: Thank you very much, Mr. Vice-President. I was one of those in support of the original Equal Opportunity legislation and for a long time looked forward, like many other citizens, for its passage and its implementation. Now, as section 2 of the Act says, "This Act will come into force on such a date as is fixed for proclamation." Therefore, it was one of those Acts,

which required proclamation, unlike the current DNA Act, for example, which we have heard people talking about, which is not yet proclaimed. But this Act required proclamation and it has been assented to since 2000 and proclaimed in 2001. This was an Act, similar to many such pieces of legislation already in existence in the United Kingdom, for example, and in some states in the United States.

It—as I am sure Sen. Mark, whom unfortunately I did not have the opportunity to listen to said deals with the prevention of discrimination in employment and in other fields such as places of entertainment where persons would not be able to be refused by reason of their colour, their gender and their race. That has been a practice, as we all know, in this country in some clubs along the western peninsula. I do not know if any reference has been made to this, but—*[Interruption]* Sorry, I missed some contributions, which I would be interested in hearing—the Act at section 4 talks about “the Act applies to discrimination in relation to employment, education, the provision of goods and services and the provision of accommodation; if discrimination on the ground of status as defined in section 5 or on the ground of victimization, as defined in section 6.”

My understanding of provision of goods and services would include matters such as entertainment and the like, and if it is that in some places which provide entertainment, discrimination against persons being, in terms of their entry into such places, based on their colour and/or their gender, or their race, or religion, or disability, then this will fall within the scope of the Act.

My understanding too, from various reports subsequent to 2000 and prior to that, is that persons who were not of a preferred race or colour were charged double or sometimes triple the admission in certain clubs in Trinidad and Tobago for entry in those clubs. I do not know if all Members are aware of this, but this has been so; certain persons can just walk into some clubs or could have—I do not know if it has changed now, but my feeling is, not fully. Some persons are charged a cover fee of \$30 while others are charged \$100. I was told this from nephews and nieces who I know have attended some of these clubs, much to my, not dismay so much, but my suggestion that they should refuse going these clubs. But, you know how it is when people feel that they want to be in with “in crowd”, you go into the “in places” and the “in places” unfortunately, in Trinidad and Tobago appear to prefer persons of certain status; status of course, referring to ethnicity and race.

Now, in Trinidad and Tobago in 2008, one would have thought that that was something of the past, and people do not like to hear the truth; people do not like

to hear that this happens regularly and that persons who look like you or me, may not have, if we did not have probably a certain status in the society and I use “status” in its normal sense; persons of that nature would not be welcomed with open arms, whereas other persons who bore colour, and you could look amongst your colleagues and you could see that and possibly, Sen. the Minister, Mariano Browne, might be admitted in certain places where the rest of us would not—you would pass that level.

Sen. Browne: I do not go to those places.

Sen. D. Seetahal SC: Sorry?

Sen. Browne: I do not go to those places.

Sen. D. Seetahal SC: I am not sure what the Minister is saying; if he is saying “do not go there,” I am sure—[*Interruption*]

Sen. Browne: I do not go to those places.

Sen. D. Seetahal SC: Oh, okay, okay! I thought he was giving me an implicit warning; I was going to react to that. You know how I react to implicit warnings. I am sure he does not go, but he may have children and other persons who do go to those places. That is my point; that is but a mere example as to why the Equal Opportunity legislation is vital, is necessary in this country. People like to think that we are all one and this does not happen here and that people, say, who are Hindus, for example, are regarded with equality as persons who are Roman Catholics, by all and sundry, as it should be, Mr. Vice-President.

2.45 p.m.

What I have to say, in today’s world this is more often so, but when I went to school I know that persons who were considered not Christian were treated like pagans. Not in Bishop Anstey, by the way, but in other schools if you were not of a certain religion then you were treated as if you were outsiders, and that is the sort of thing that we can prevent with the Equal Opportunity Act, and we all know this. I am saying these things that I am sure Members on the other side do know and are all too aware of. My question, therefore to the Government is the same as Sen. Mark’s, when is this to become law? I note that Minister Dr. Saith is not present in the Chamber and he has in the past had something to say—[*Hon. Senator indicates he is at the back*]. Oh, he is sitting at the back there, but he has had a lot to say.

The resolution before us is that this Senate call on the Government to take immediate steps to have the legislation fully effected, implemented and

operationalized in the Republic of Trinidad and Tobago. Now that the Privy Council has said that there is nothing wrong with this legislation one has to wonder what is the delay in the establishment—I know that we have now had commissioners appointed—in putting into effect all the other necessary groundwork to make this thing work. I really do not have much else to say except that in the initial drafting of this piece of legislation there was a hue and cry as to the non-inclusion under status—“status” in relation to a person means sex. There was a suggestion that we should include “sexual orientation” and there are various groups in this country who pointed out that people are currently discriminated against because they may be homosexual.

Now, the law in this country—I just thought I should throw some light on it—is not that it is an offence to be a homosexual. The law in this country is that it is an offence to have certain types of sex. Sodomy is an offence under the Offences Against the Person Act, but being of a certain sexual “orientation” is not an offence. If, however, you are a foreigner and you seek to come into the country, under the Immigration Act the Minister of National Security can say “No, I refuse to allow you”, just as he can refuse to allow a prostitute or other persons. But the argument made is that persons could be of a certain sexual orientation and not be breaching the law. So why then would you not include it under the definition of status? The argument is made that this being so, it gives employers and persons who run establishments such as entertainment places, it gives certain schools the right to debar persons of sexual orientations or debar persons from employment on the basis of their apparent sexual orientation.

Mr. Vice-President, I do not know if Trinidad and Tobago is yet mature enough as a nation to determine that sexual orientation is not an issue. Other First World countries have determined that that is so. We are saying that we are seeking First World status. My point here is not to make an argument for or against, but my point is that when persons raised this when this legislation was being passed. The Government of the day decided that they did not want to include it. This current Government has said that they want to achieve First World status by the year 2020. First World status entails a lot of things and among that is a degree of liberal thinking and liberal thinking would include, in my thinking, non-discrimination on the basis of sexual orientation.

So I would imagine that this Government, if it is moving towards that First World status, should move towards all that it entails and therefore it is a matter for this Government to decide whether giving effect to this Equal Opportunity Act, implementing it and operationalizing the thinking behind it, it would involve

considering whether there should be non-discrimination on the basis of sexual orientation. What about also deciding that there should not be discrimination on the basis of illnesses? There is nothing here to prevent persons from discriminating against others on the basis that they have AIDS or HIV.

For a Government that is looking in 12 years to achieve First World status, is this not something that the Government should be thinking of and should be cognizant of? It is one thing to say that you are spending \$500 million over five years—and I am yet to know what happened to the other \$420 million, because I only saw accounted \$80 million in the last two or three years. But if the Government is spending all of this money in fighting HIV and AIDS then I would think that part of that is to, in the final analysis, prevent discrimination against persons who have AIDS.

So, those are two matters and there are many more we can expand even further. There are various types of discrimination that exist and are tolerated in this country. What about disability? The Government of the day, of course, after having been taken to task—and other governments, I am not saying the attitude is peculiar to any one government—have started but—the disabled people have not been treated in the same way or with the same regard for what they have been born with. It is no one's fault that he or she is disabled. The fact of the matter is you ought to be given special treatment because you cannot help it. But do we have buses here that accommodate people who are disabled? Has the Hall of Justice done as required? The Hall of Justice was supposed to be designed, or at least restructured, to accommodate persons who have disabilities. What is happening? How many months ago was this to be done? We were told, I think someone brought a case, I do remember a case was brought for access to justice and one is denied access to justice if one does not have equal access to the courts.

Mr. Vice-President, are you aware that there are some 17 steps to be trawled to go up to the first level of the Hall of Justice. I dare say you may not be because you may not count those steps, 17 or 18 steps. If one is wheelchair-bound, do you know what has to happen now? One has to be lifted physically and carried up those steps. And there are persons who are to be witnesses or sometimes accused people who cannot access justice equally because of that. Months and months ago we were told that this would happen. It has not happened! It has not happened and instead what we have are areas within that access to the Hall of Justice which can cause problems. There are holes that people can step into right now on the western side of the Hall of Justice that can create problems for normal people. When I say normal I do not mean disabled people are not normal, but people who

have regular use of their limbs. They can fall because there are areas there that are not seen to, far more for people who are disabled. So, all over the country we have discrimination implicit against people with disabilities and this is one case that the courts said to the courts, "You should accommodate disabled people". This is a judgment from a judge within the Hall of Justice saying, "Fix up the Hall of Justice", but it has not been done. The Magistrates' Courts, the streets, sometimes only partially can blind people cross those streets with safety, you know, Mr. Vice-President. You have to be on the lookout for them, when the streets are going down in other areas.

So, in this country we are talking the talk and saying we want to be developed, we want to be First World and we want to be a lot of things but there are many areas that I cannot see happening in the next 12 years. For instance, I have said that we can accommodate our society to accept people on the basis of their sexual orientation, I cannot see it happening that people will start treating people who have AIDS and HIV in the same way as other people and I cannot see that disabled people will be given the same treatment or, at least, put in the way that they can deal with situations just like everybody else. The State then should put things in place so that whatever they suffer because of their disabilities they would have an advantage by the provision of amenities to correct those from the State. This is not happening and it is a sad thing when we talk so much as if money is no problem and Members get up and talk about all kinds of personal issues and nonsense and we do not really fix our mind towards development in its widest sense.

So, I think for Sen. Mark to have to bring this Motion to call on the Government to implement a piece of legislation that is so necessary is testimony to the slow pace in which all of these matters, which are necessary to make this country First World and to improve the quality of life, are going too slow.

Thank you very much.

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Thank you, Mr. Vice-President. I stand today to join in this debate on this Motion filed by Sen. Mark and I want to say in opening that Sen. Mark may have read my mind when he moved earlier to amend the Motion which he originally laid. It may have been that he might have been just following on a pattern that he had set out in previous Parliaments and had failed to take cognizance of certain developments at the time that he had filed the original Motion. Therefore, he took wise counsel and made the amendment to delete the word "proclaimed" and speak, about the operationalization and implementation of the Act.

I would just like to set the record straight from inception. Sen. Mark has said that the Act has been proclaimed, and he is correct. The Act was in part proclaimed in November 2000 and fully proclaimed by January 2001. Much has happened since then. One would recall that there were certain constitutional issues surrounding the implementation of this Act in the view of the Government of the People's National Movement. I think until that was finally settled in 2007 by the judgment of the Privy Council on October 15, 2007, a lot of what was seen as inaction could have been explained on the grounds that the Act was considered by the PNM to be unconstitutional. Not just only by the Government but due to proceedings in court, both at the High Court level of Trinidad and Tobago and in the Court of Appeal of Trinidad and Tobago, the Act was declared at those two levels to be unconstitutional.

Now, if I am permitted I would just like to carry us on a brief history in that when the original Equal Opportunities Act, 2000 was debated in this Senate, Sen. Mark pointed to the fact that the People's National Movement which was then in Opposition did not support the Bill and gave the impression that the PNM is not about recognizing rights of people. I would like to say that the history of this nation does not support that.

3.00 p.m.

Sen. Mark started off by referring to section 4 of the Republican Constitution which is under Chap. 1 and refers to the recognition and protection of the fundamental human rights and freedoms, and under Part I, the rights are enshrined. I would like to remind this honourable Senate that the Republican Constitution was passed under a government, a PNM-led government, which were the predecessors of Members on this side. The fundamental rights and freedoms of the citizens of Trinidad and Tobago were not only recognized in the Constitution of 1976, but were preceded in the provisions of the Independence Constitution of 1962. So to say that this Government does not pay recognition to human rights and fundamental rights and freedoms cannot be correctly stated as a proposition.

Sen. Mark also rightly pointed out that the Equal Opportunity Act really does not deal with any sort of invasion of the fundamental human rights of citizens by the State, or agents of the State or public authorities. Those rights and those acts that invade those rights are well protected by the Constitution, and even from the authority he referred to in the Maha Sabha case, it is well documented that fundamental rights and freedoms of the citizens of this country when encroached upon by the State or state agencies, are well protected by the courts of Trinidad and Tobago, so that there is no issue with respect to that.

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With respect to when these rights are affected by private citizen against private citizen, the approach before 2000 by Members on this side as was reflected in the debates in the Parliament was this, that—just as was said by Sen. Mark—love and respect cannot be legislated. And it was felt that legislation of this sort was really entrenching racialism and discrimination, and that the removal in the private arena of any sorts of acts of discrimination would have been better achieved by social engineering; by programmes that would develop people in their thinking, and in their recognition and acceptance and tolerance of differences. We really have not done badly as a people when it comes to respecting diversity and in accepting diversity.

In his presentation Sen. Mark referred to the fact that development is only possible in a plural society when they are united and disciplined; when equality in society and in the nation is recognized and he referred to a number of societies where there was divisiveness based on ethnicity, religion and race. He quoted the United States of America and he quoted Nigeria where there is division on the basis of Christian and Muslim. But when we look at Trinidad and Tobago, what has been our experience? Trinidad and Tobago, where there are a number of races, is a plural society, various races, various religions and there is a great measure of harmony and a great measure of tolerance.

All our religions are accepted and celebrated and it is evident in our holidays that we celebrate. We embrace and celebrate our differences. Indian Arrival Day is a public holiday which we celebrated at the end of last month. Emancipation Day which recognizes the emancipation of the African slaves will be celebrated on August 01 and is celebrated on August 01 of every year. All our major religions; we celebrate Eid-ul-Fitr and Divali, just as we celebrate Christmas. All our religious entities are recognized; our major ones are recognized by the celebration of the holidays and that recognizes our tolerance and our acceptance.

This Motion has been or a Motion in similar terms had been debated before in this honourable Senate and in the other place, and also there have been several debates on the Equal Opportunity, as it was, Bill in 2000 and the amendment Bill and I want to quote from the contribution of the then hon. Fitzgerald Hinds. He was then the Minister of State in the Ministry of National Security and the Minister of State in the Ministry of Trade and Industry and this was in the other place on March 21, 2007 when he introduced the Equal Opportunity Bill, 2007 and I quote:

"Mr. Speaker, where the inequality or discrimination results from the action of private entities, the individual has no redress under the Constitution. Often

such persons are unfortunately left with a deep sense of injustice and it undermines their faith in the rule of law."

But he goes on to say that when we look at Trinidad and Tobago, we have done well in managing diversity and I quote from his speech again:

"The Government acknowledges"—and this would have been a Government composed of Members of this side —"that in a society with diverse races, religions and culture, it is indeed important to manage diversity. I want to say that Trinidad and Tobago, regardless of what the soothsayers and those who want to see different would say, we have done an excellent job as a nation in managing the diversity that we inherited from our past.

The people of Trinidad and Tobago deserve all our sincere compliments and salutations. They all deserve, in my view"—what was then the highest order—"a Trinity Cross."

As I mention the Trinity Cross and with respect to any claims that this Government is undemocratic, that this Government supports discrimination, Mr. Vice-President, I want to refer to the decision of the High Court of Justice of Trinidad and Tobago which declared that the Trinity Cross was discriminatory and look at the response of the Government of Trinidad and Tobago as a result of that decision, in that since then a committee has been set up to look and revisit what is the highest order in this country.

We would have seen just about two weeks ago, that the committee has reported and has displayed what would be the Order of Trinidad and Tobago, which would replace the Trinity Cross. And that was an immediate response by this Government, having been pointed to the fact by a decision of the High Court that it was discriminatory to have the Trinity Cross as the highest honour of this country. So when you look at our complete history in government, you would see that as a Government, a Government led by the People's National Movement, has done all in its powers to prevent and to denounce discrimination by the State and by a public authority.

Mr. Vice-President, in terms of what has happened and what has been done by the Government, the Equal Opportunity Act, 2000, even though this Government felt that it was unconstitutional, it did precisely what or it attempted to do precisely what the majority decision in the case of Suratt against the Attorney General said, in that having thought that the Act was unconstitutional, the Government attempted in 2006 and in 2007 to lay before the Parliament, the Equal Opportunity Act, 2007, in which it sought to comply with what this

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Government considered were deficiencies of the 2000 legislation. That 2007 piece of legislation was introduced in the House of Representatives on January 19, 2007. It was further debated in the House on March 21, April 20, April 25, and May 21, 2007 and it was then sent to a Joint Select Committee of Parliament on May 27, 2007.

Mr. Vice-President, that committee held four meetings. Those meetings were on June 12, July 10, July 24 and September 12, 2007. The Bill was then circulated for comments, but the committee did not submit a report to Parliament before its dissolution on September 28, 2007, so the Bill lapsed. The Government had been doing what it could in its power, having held the view based on legal advice and also being supported by the decisions of both the High Court and the Court of Appeal of Trinidad and Tobago, that the Act of 2000 was unconstitutional. This Government did not shy away from its responsibility, it sought to bring new legislation to meet what was perceived to be the constitutional objection and which in effect would have replaced and repealed the 2000 Act.

As we know, the events of October 15, 2007—that was the decision of the Privy Council—changed the whole landscape. The Privy Council was comprised of five members and I would like this honourable Senate to take note that it was not a unanimous decision, there was a dissenting judgment which supported the view held in Trinidad and Tobago that the 2000 Act was unconstitutional. I would like us to take note, particularly, of the contribution of Sen. Mark when he says that, “so long as there is a PNM-led government, we must retain the Privy Council”, and say that must be an insult to the courts of Trinidad and Tobago. What Sen. Mark is really talking about is introducing a sense of neocolonialism in Trinidad and Tobago—shame on you this time—and I would like to refer—*[Interruption]*

Sen. Mark: I have no problem with it.

Sen. The Hon. B. Annisette-George: You do not have a problem with being ashamed? Kings do not be ashamed; I forgot that. I would like to pay particular regard to the statement made by the dissenting judgment of Lord Bingham and he pointed out this.

3.15 p.m.

I would like us particularly to take note of what Lord Bingham pointed out, when we feel that the judges of this country are not worth their salt and deny them the merit that is due to them. There was a sort of innuendo in the statement of Sen. Mark in his contribution. The hon. Lord Justice Bingham started off by

saying that this was not an easy question to be decided by the Privy Council. These are his particular words which I quote from paragraph one of the judgment of Lord Bingham of Cornhill:

"This appeal raises a question of great difficulty and importance. It is whether the Equal Opportunity Act 2000...is inconsistent with the Constitution of Trinidad and Tobago, which by section 2 of the Constitution is the supreme law, and so void. It was held to be so by Smith J sitting in the High Court and his decision was upheld by the Court of Appeal..."

Comprising Chief Justice Sharma and Justices of Appeal Archie and Mendonca; indeed, a very strong court in Trinidad and Tobago.

"...in a judgment of Archie JA with which the other members of the court agreed. The appellants challenge that conclusion."

That is what the judgment of Lord Bingham of Cornhill starts by saying. The hon. Lord ended by saying something that I think is of particular significance in terms of paying regard to the fact that we have capable courts in Trinidad and Tobago. We have capable courts in the Caribbean.

This is at paragraph 28 of the judgment:

"To the extent that the answer to the present problem is doubtful, weight should be given to the judgment of the Trinidad and Tobago courts. A judge sitting in a local constitutional environment, in which he has grown up and with which he is familiar, is likely to have a surer sense of what falls within the purview of the Constitution and what falls beyond than a court sitting many miles away. For this reason alone, in the absence of manifest error, the Board should be slow to disturb the unanimous conclusion of the local courts on a question of this kind, involving as it does a question of judgment and degree."

So it is not that it was an easy question. This judgment in itself supports that there was merit in the view of this administration that there was a grave possibility that the 2000 Act was unconstitutional. Lord Bingham further says at paragraph 29 of his judgment:

"I appreciate that a majority of the Board take a different view. But no assistance is in my opinion gained from considering what could and could not be done in the United Kingdom, which unlike Trinidad and Tobago has no entrenched constitution."

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For the hon. Sen. Mark to be taking comfort in allowing the Privy Council to decide on constitutional matters in Trinidad and Tobago, where the whole constitutional arrangements that exist in the UK is quite different of Trinidad and Tobago, is a great shame.

Sen. Mark has been a part of the Parliament of Trinidad and Tobago for several years and I am certain that it must be an insult to the people of Trinidad and Tobago to hear that the hon. Senator holds such a view about the people being able to determine. [*Interruption*] You said that you wanted the Privy Council to do it.

Sen. Mark: Do not put words in my mouth.

Sen. The Hon. B. Annisette-George: When we hear the contributions, it appears as if setting up the Equal Opportunity Commission and the Tribunal is like setting up a little kiosk in the mall and not setting up a serious commission and tribunal, which would have judicial functions. In a way, when we hear Sen. Mark, it is almost as if we are standing in the room and with one ear we hear one thing, but coming from the other corner of the room we hear another band playing. At the end of his submission, when the hon. Senator called on the Attorney General to do certain things, the hon. Senator, in fact, set out the very serious considerations and steps to be taken in bringing into life, into being, into implementation, the commission and the tribunal.

Mr. Vice-President, this Government has not been idle. This Government does not intend to sidetrack or suffocate the Equal Opportunity Act and I take great pleasure in telling this to Sen. Mark. You are correct, the decision was given on October 15, 2007. I am sure I do not have to remind Members of this honourable House with what this country was engaged in the months of October and November 2007. I am sure you were on the hustings; I am sure you were on the platform, Sen. Mark.

Sen. Browne: "Dey did not let him talk."

Sen. The Hon. B. Annisette-George: They did not let him talk? I am sure he spoke; otherwise he would not be sitting here; he spoke.

I am sure, having been in government, the hon. Senator would have understood that once an election was declared and persons are in high gear, what really happens in the actual management of the ministries. So you could well appreciate that, and I am sure you could share that with the public of Trinidad and Tobago.

I am sure, Mr. Vice-President, that not only the Members of this honourable House, but also the general public of Trinidad and Tobago, could recollect that a

Prime Minister was sworn in on November 07, 2007, and the rest of the Cabinet was sworn in on November 08, 2007. Ministers took up their portfolios by November 19, 2007. I would say that from the date that this Attorney General was sworn in—in fact, I had to be hustled from the actual swearing in ceremony to familiarize myself with an order to be made in the very case of Suratt and the Attorney General, a Privy Council matter.

Even though the decision was given on October 15, 2007, the order of the court was not yet finalized. I had to leave President's House to come to the Office of the Attorney General to sign the instructions with respect to the finalization of that Order. So as immediately as the new Government came into being, this decision of the Privy Council to implement the Equal Opportunity Act began forthwith and was being given serious consideration.

On November 27, 2007, perhaps, the very first note that the Attorney General took to the Cabinet was a comprehensive report on the status of the Equal Opportunity Act. The Attorney General advised the Cabinet of the decision of the Privy Council and that steps were to be taken promptly to bring the Act into operation, pursuant to the Privy Council judgment. The hon. Attorney General further advised this honourable House that on December 04, 2007, additional information was provided to the Cabinet and that on December 13, 2007, the Cabinet agreed to implement the Privy Council ruling that the Act be implemented without further delay.

So this Government, and any PNM administration, recognizes the rule of law and honours law; therefore, as soon as the Government got into office, as the time lines would show, the decision of the Privy Council was recognized and serious steps were being taken to implement the commission and the tribunal.

I want to just read into the record what was noted by the Cabinet of Trinidad and Tobago in December 2007. The Cabinet noted the steps to be taken to implement the commission and the tribunal. It reads as follows:

- “(a) the assignment of a Minister with responsibility for equal opportunity...to facilitate the carrying out of the various functions entrusted to the Minister under the Act;
- (b) the appointment of the membership of the Commission—in accordance”—with the provisions of—“section 26(1) of the Act...
- (c) the appointment of the members of the Tribunal, pursuant to sections 41 and 42 of the Act...

- (d) the appointment of the panel of advisers...
- (e) the establishment of the infrastructure necessary for the proper implementation of the Act, which would be linked to an organisational structure to be developed for the Commission and the Tribunal and should include”—among other things—“the physical infrastructural requirements such as building, staffing both professional and administrative, equipment, and rules and regulations—to be developed by the relevant Minister, when assigned.”

All this took place as early as December of 2007; these were decisions taken as early as December 13, 2007. By an instrument issued under the hand of the hon. Prime Minister on December 13, 2007, the Attorney General was assigned as the Minister with responsibility for the establishment of the Equal Opportunity Commission and the Equal Opportunity Tribunal as set out in the Act.

Sen. Mark, you have stood here and advised hon. members of the Commission to be careful, not only with what they said, but how things were perceived. You cautioned that you did not want to hear that the building where they were housed was in the office of the Attorney General. One understands and appreciates that. That is why, even as the Attorney General was assigned the responsibility, and steps were taken to identify that an administrative structure should exist, it was decided that it would be an interim administrative structure; so that when the Commission came into being, it would take over and make the decisions to give the Executive the arm's length, which I am sure, Sen. Mark, would give you the comfort of the integrity of the Commission. It would give the arm's length to the Executive, in the Commission coming into being and running its affairs and deciding on those several matters that you said waited to be decided with the level of impartiality that we expect of them. We always remember that justice must not only be done, but it must also be seen to be done.

Further, I would like to inform this House that by a Cabinet Note of January 2008, Cabinet was asked to agree to the proposed interim structure, to the creation of posts for the Equal Opportunity Commission and Tribunal and to identify funds estimated at \$10,046,300 annually, to meet the personnel costs, and \$3,392,000 to meet the expenditure for operational costs for fiscal year 2007/2008. So we are not talking about the new fiscal year; we are talking about 2007/2008.

3.30 p.m.

These proposals were agreed to by the Cabinet. The interim structure, as proposed, was agreed to; the employment on contract of staff was agreed to; the

creation of certain posts on the staff establishment of the Ministry of the Attorney General was also agreed to and the Ministry of the Attorney General was also ordered to identify funds to meet the expenditure to be incurred and the operational cost, so that the commission could start to function, so that it would not just be a commission in name, but it would be a commission in substance and be able to deliver to Trinidad and Tobago in accordance with the laws of Trinidad and Tobago.

I am also certain, because the hon. Sen. Mark referred to it, that—as the hon. Senator read from the newspaper article; it would not have escaped anybody—that on April 21, 2008, the members of the commission took their oath of office and it is quite an esteemed commission. It is headed by Prof. John La Guerre as the Chairman; the vice chairman is Dr. Hamid Ghany; the other members are the former Independent Senator, Eastlyn Dr. Mc Kenzie, Miss Stephanie Daly, attorney at law and Miss Beverly Beckles, who is a member of the National Commission for Persons with Disabilities.

His Excellency the President also, on that date—and I am sure it did not escape Sen. Mark either because it is reported in that article—indicated about the progress being made to establish the tribunal. According to section 41 of the Act, the tribunal is established, not by the Executive, but the chairman of the tribunal would be appointed by the President on the advice of the Judicial and Legal Service Commission. I would like to say that Sen. Mark—even though he tells me he protects my interest—has been developing a practice of trying to encourage me to interfere with independent bodies established under the Constitution. I intend to stay very far from that piece of advice. His Excellency the President set out that the Judicial and Legal Service Commission would be embarking on advertising for the post of the chairman of the tribunal and I guess that is taking its course.

As far as the appointment of the lay assessors, there is an anomaly in the Act which refers to certain pension rights of the lay assessors and shortly an amendment will be tabled and is advisable that that will be done before the lay assessors be appointed because it would affect their rights to emoluments if they were appointed before that amendments were effected.

I want to assure this honourable House that urgent steps are being taken; a building has been identified as a permanent home for the Equal Opportunity Commission and Tribunal. That building is in a location which we feel that all citizens of Trinidad and Tobago would have access. It is felt on this side that central Trinidad is well positioned as far as access for the location of the permanent home and steps are being taken to secure this building and, therefore,

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there will be need to retrofit this building. It is a new building; it is still in the process of construction, even though at a very advanced stage and if all goes well, we expect that the Equal Opportunity Commission and Tribunal will have a permanent home by the end of this year and, therefore, the retrofitting would take place.

In any event, we recognize that for the commission to begin to operate it needs a building and this administration has been following and pursuing several buildings, at least to house them temporarily. There is one that we are currently looking at and negotiations are in train. I think that I would have gone on record before as saying that another building had been identified. However, it was lost to some other competing agency and we are still now pursuing another building. But right now, so that it could begin its work, the commission has been given some temporary accommodation in the Winsure Building. They can start, at least, having their deliberations and their meetings and they have already had their first meeting; I know that much.

As far as staffing, efforts are being made to source the staffing and I am certain very shortly the commission will advertise for the positions that it needs to be filled, and efforts have also been made to obtain a vehicle for the commission so that at least once they get their minimum staff, they will be able to send out their correspondences and do all that is necessary.

So that I am certain that Sen. Mark recognizes that in setting up a commission and a tribunal with the mandate that these bodies have under the Equal Opportunity Act, involves a number of steps and he has called upon the Attorney General to do certain things. All those matters that he has identified are being taken care of: the staffing, the accommodation. The budget has not only been identified in terms of a sum, but the funds have been identified for this fiscal year and this is how the commission has been able to start doing some of its work. The commission is not yet ready to open its doors because it cannot open its doors without staff and I am sure the hon. Sen. Mark well appreciates that.

I also want to say that the PNM has a very proud record of maintaining a policy of equal opportunity in education. It was under this Government—and I think that there can be no real issue to that. My recollection—and Members here have said it—is from the contribution of Sen. Dana Seetahal SC in support of the Equal Opportunity Bill. She had pointed out that she had come from a very humble background—and I hope the hon. Senator does not mind me paraphrasing her. But she had pointed out that she had come from a very humble background, but she, at no time doubted that working hard at school with the educational

opportunities made available to her, that she would have achieved success, and I think her educational history and her career background speak of the success that she, as a child, dreamt that she could have achieved; it has been realized. I am sure I could say that for many of us who sit in this honourable Senate today, because having regard to our ages, all of that has come about from the education policy of the People's National Movement in the Government of Trinidad and Tobago.

Sen. Mark: I was not lucky.

Sen. The Hon. B. Annisette-George: You were not lucky? Maybe you did not take advantage of the opportunity.

Sen. Mark: They had no space for me.

Sen. The Hon. B. Annisette-George: But you can still—there is tertiary education and it is open to you even at this stage.

The PNM has also had a record for its commitment to a policy of interracial solidarity, regardless of race, colour, class or creed, and I am sure that Members here would recollect the round-table discussions hosted by the hon. Prime Minister in another administration, with respect to the issue of race and also the setting up of the centre for racial harmonization in this country.

The PNM is also committed to a policy of unity in diversity. We talk about race in this country but when you look at the Benches, and you look at the composition of the Benches, both on the Opposition side and the Government side in this House and in the other House, one wonders what we are talking about.

Sen. Seetahal SC: What about the Independents?

Sen. The Hon. B. Annisette-George: And Independents. When I say the Benches—I am sorry if it did not appear. I said the Benches in this House. One sees the spectrum, and today could not be a better example of the policy of unity in diversity, which has been entrenched in this country.

Given the rich multicultural, multi-religious and multi-ethnic composition of this society, the People's National Movement, in government and out of government, is committed to multiculturalism. We on this side recognize that managing the diversity in our country is a challenge, but I think we have done well. As a people and as a government we have risen to the challenge. But this Government is determined to rise to the challenge, to pursue policies and

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programmes that are fair, just and equitable. We recognize that the society is evolving and given all the circumstances, we will continue to be committed to the rule of law of Trinidad and Tobago.

I say, in closing, that all the proper steps to ensure that there is a proper, functional commission and tribunal have been taken. Because it is not a little parlour, the date for opening its door is going to be a little way down the line, but this Government has not been dilatory since October 15, 2007.

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

Sen. Ryan Spicer: Mr. Vice-President, firstly, it is a great honour and privilege to be in this honourable House representing both my party and the youth of this country. In these circumstances, I would like to record my appreciation to the Leader of the Opposition for allowing me to represent the youth of this country.

“Here every creed and race find an equal place”, these are the words from our National Anthem and it is a crying shame, not only because it is a false statement but also because we are nowhere near to reaching this goal all because of the current Government. One might ask: Why is that so? Yes, the legislation has been passed, but what good is this when it is not being implemented in the wider society. This is not the only piece of legislation that has not been implemented by the Government. There is also the Justice Protection Bill; the Criminal Injuries Compensation Bill; the DNA Bill, which was passed in 2000. All these Bills were put in place to help the people of this nation but are not being implemented and the people all continue to suffer at the hands of this Government.

I wish to remind this administration that one of the Government’s main roles is to protect the rights of the individual. If that is so, by holding back the right of equal opportunity, this Government has already shown that it has failed the people of Trinidad and Tobago. The people are being held to ransom at the hands of a virtual dictator. It is said that we live in a democratic state. I wish to show that there are two principles that any definition of democracy is required to have.

The first is that—and I stress—all members of the society have equal access to power, and the second is that all members, universally, recognize freedoms, rights and liberties. How can we call ourselves a democratic state if there is no equality in the society? My party understood the need for equal opportunity legislation. We also have and we have also had what Government has been lacking in every sphere of management of this country—political will.

We had the political will when we were in government to deal with crime; we had the will not to victimize and oppress the people of constituencies which were held by our political opposition; we improved the infrastructure and executed social improvement programmes in these constituencies.

3.45 p.m.

We understood then as we believe now, that when you govern a country you do so, on the basis of an oath to serve all persons equally without fear or favour, affection or ill will. That is why we introduced universal secondary education and opened options for tertiary education. That is why we created over 80,000 sustainable jobs; we revamped police stations and health centres across; we implemented the emergency health service, so it does not matter who you are, where you live or whatever your standings, when you collapse you could receive prompt quality medical attention.

That is why we introduced and we were first to create an Equal Opportunity Bill. We recognized the need for equality in our twin island state. Can you believe that three leaders before us who include the current Prime Minister never saw the need for something as important as equal opportunity for all in society. I am not sure that the current administration understands the need for equal opportunities. If they did they would surely implement it. The main reason for this piece of legislation is to fight discrimination. Discrimination is to treat people differently or unfairly because of their race, gender, ethnicity, origin or religion. An ill effect of discrimination is the effect of division in the society. Many groups in society are made to suffer because of this Government's refusal to implement an important piece of legislation.

An example of this is seen clearly in an issue of the *Trinidad Guardian* newspaper, dated Friday 30 May, 2003. It states:

“Groups go to court for equal rights

Three groups yesterday filed a constitutional motion in the High Court alleging their rights have been violated because of the Government's failure to appoint the Equal Opportunity Commission and Tribunal. Fifteen members of the Blind Welfare Association, along with Caroni's daily-paid workers and four disabled people, filed the motion at the Port of Spain Registry through attorney Garnet Mungalsingh.

They are contending that even though the Equal Opportunity Act has been passed by Parliament and assented to by the President, neither the Equal

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Opportunity Commission nor the Equal Opportunity Tribunal has been set up by the Government.

The effect of this they say, is that people who suffer unequal treatment and who are entitled to get redress from these bodies have been denied access to justice.

The groups are asking the court to declare that the Government's refusal or neglect to set up the bodies is unconstitutional and illegal."

Since 2000, this piece of legislation was passed and yet they have not set up the tribunal which is the process that actually resolves these disputes of discrimination. It is not surprising that this Government has allowed people to suffer for more than seven years because it would seem that it was opposed to this piece of legislation in the first place. When it was introduced the government did not give us the support in Parliament to pass the original draft of the Bill, so we had to try a different version. It was one which in the opinion of our attorneys did not require a special majority. We took our chances to go that way because we had a responsibility to protect the people from the rampant nepotism and discrimination they have grown accustomed to and which had been institutionalized by virtually uninterrupted rule since 1962.

The court agreed with a need for this legislation and found no fault with what it was trying to do. The court said that it required a special majority to become law because of the way it interfaced with the Constitution. What does that mean? It means that the then Bill had no major flaws as such. There was no reason it could not have been brought back to Parliament, amended if necessary and passed by the required majority in the interest of protecting the rights of the citizens of Trinidad and Tobago.

It is only the current Government that found flaws with this Bill. What were the flaws? The first flaw was that it was an initiative of the United National Congress. The biggest flaw of that Bill is that it would not have allowed them the free hand to discriminate against more than half the population with its policies of victimization, oppression, exploitation, nepotism and outright corruption that characterizes this regime.

It would not have allowed them to pursue their blatant discriminatory housing plan of mixed communities, or the ethnic cleansing of Petrotrin, or the genocide of shutting down Caroni (1975) Limited and the sugar industry. We have seen that in this country the Government holds grudges against constituencies that are not

its own. Its presence of social welfare programmes are drastically reduced compared to constituencies that are its own. The infrastructure in these constituencies has been allowed to deteriorate.

The testimony to this is the state of the roads in areas like Mayaro and Tabaquite. These areas are plagued with water woes and drainage problems. Many of these same areas are agriculturally based communities. In this day and age we are made to bear the cost of high food prices because of food shortage. The people in these areas are discriminated against by the Government that deprives them of proper infrastructure needed to achieve high levels of productivity. In fact, they are not given an equal chance to achieve maximum production of their crops. Then again, the Government brings foreigners and gives them all the infrastructure and amenities to open so-called megafarms. Where is the justice in that our people are made to suffer and foreigners are given every opportunity to succeed?

Today, young people in this country face all types of discrimination in all aspects of life. Employment, for example, in this country, instead of awarding a job based on merit, we still live in a society where people are given jobs because of who they know. Jobs are awarded to friends and family members while people who studied hard are not given a fair opportunity. [*Desk thumping*] Youths living in high crime areas are not given a fair chance in life because there is no equal opportunity. Many of them come from broken homes. Their parents are unable to make ends meet. Life is hard for people in these areas. They have no food, water and some have no electricity. Under these conditions, these youths cannot concentrate on their school work. At least most of them have not been able to compete with those who had a less uncomfortable life. These school places went to the brightest and they were left behind. With not enough programmes put in place in these areas, they are forced to a life of crime. We see that the people continue to suffer at the hands of the Government.

It is unlawful that the Government refuses to implement a Bill that has been passed. Is it that the Government is “bad mind” in that this Bill was not its own so it refuses to implement it and cause suffering and distress to thousands in society? Something needs to be done. The people need to be treated equally for without it we can never improve as a society.

Let us not look at minor privileges like public holidays which in no way helps and promotes a better way of live, or the people of this nation. Let us not settle for mediocrity and say that we have done well. Let us move forward and allow the people equal opportunity and when this is done we would see certain growth in our country.

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I am glad that I have been informed that a building is being put in place for the Equal Opportunity Commission, but the length of time that this current Government takes to put anything in order, surely, thousands more would have to cry blood and tears before they are able to receive any kind of redress.

Thank you.

Mr. Vice-President: Senators, I take the opportunity to congratulate Sen. Ryan Spicer on his maiden speech.

Sen. June Melville: Mr. Vice-President, I rise in support of the Attorney General. I was quite amazed listening to our new Senator, Ryan Spicer. Having listened to him, I was wondering was he talking about my beloved Trinidad and Tobago? I want to inform not only Sen. Spicer but also Sen. Wade Mark that in terms of discrimination, I would have lived in a First World environment where I would have experienced first hand what discrimination is about. The only black child in a school, I have been there. I am talking about living in a First World environment.

When I think about my sweet Trinidad and Tobago, when I thought about it prior to coming back here to live, it was the sheer joy of knowing that every creed and race stands an equal place. That is what made me come back to live in Trinidad and Tobago after 30 years of living overseas.

I am wondering if our hon. Senators on the other side do not fully appreciate what we have here in Trinidad and Tobago. Where exactly is this discrimination against the other half of the population, as Sen. Spicer mentioned? Trinidad and Tobago must have the sweetest and most tolerant people on the planet. Time and time again, I read and listened to the opposite side and there is this talk about discrimination and unfairness. Sometimes, I am not sure if I am reading the same newspapers or living in the same environment. Where is it? What are we talking about?

In this society, we have the most loving people and the interracial marriages. Up to a few weeks ago, I would have mentioned that, even in my little island of Tobago. I just had to say a few words and no, you are wrong, Sen. Spicer. You are wrong Sen. Wade Mark. I have been there. I have lived it. I came back home because Trinidad and Tobago is the most tolerant place to live and the best place to live. Your views on discrimination are totally false and they are wrong. We must stop this nonsense and the negative views. Over and over it is being perpetuated in this honourable Senate that there is discrimination.

4.00 p.m.

You walk the streets of Port of Spain, togetherness is there. The average youth talks about football. We won last night. Togetherness is right there and we should all be proud of our nation, the Republic of Trinidad and Tobago. I know I am proud of it. That is why I am back here.

Thank you very much.

Sen. Mohammed Faisal Rahman: Thank you very much, Sir. I did not think that Sen. Melville would have been so brief. [*Interruption*] It comes back to my point that if we had speakerboxes in the washroom, I would have known what was going on. I was there sharing some views with a Minister.

I rise, Sir, to support the Motion of Sen. Wade Mark in relation to the Equal Opportunity Act. I had a feeling of déjà vu when the hon. Attorney General was speaking in response to Sen. Mark. I recalled her courageous defence of the indefensible in the choice of a joint select committee rather than a commission of enquiry which the goodly Prime Minister laid on the Parliament.

Today, in my view, the hon. Attorney General, with the best of intent, has sought to undermine the Motion that my colleague, Sen. Mark, brought, by reciting a number of the good things that the prior administrations of the PNM have accomplished and sought to justify the suppression of the Equal Opportunity Act, 2000 for reasons that are really not tenable.

Sen. Ryan Spicer mooted one way of implementing the Act, if it were unconstitutional in the view of the Government. That remained, even at the Privy Council level, a very minority view as the Attorney General has admitted. It could have been brought back to the Parliament and amended; not only that, but put to the Parliament with the necessary majority. The Government never really appeared to feel that there was a need for this Act. As I was just told by one of my colleagues on the Government side, this is an Act that belongs to a nation like Great Britain where minorities exist and these minorities, being discriminated against, require this legislation. Clearly, coming from the mouth of a Minister, this was really, quite unofficially, the reason the legislation was not thought necessary for the country.

As Sen. Mark pointed out, this Government does not discriminate against minorities; it discriminates against the population at large and this is one of the issues at the last debate on the Geneva Conventions where I sought to show that the Government is out of touch with its duties and obligations to the people who have returned them to office.

It is quite clear that the Government does not like what it does not initiate and this Act is not only something it did not initiate, but which shows up its discriminatory practices, which have been revealed by the cases brought. This is clearly one of those Acts that the Government had no desire to fast-track.

The way to handle a piece of legislation that the Houses of Parliament have debated and passed, if you believe it is unconstitutional but it has been passed by the Parliament, is to implement it, particularly when it seeks to correct such an outrageous matter as discrimination. If it is challenged in the court of law, which it would be if it were unconstitutional, then the constitutionality will be addressed in the proposed course of testing.

However, for a government to decide unilaterally to suppress a piece of legislation that has been passed by the Parliament is to insult the Parliament. The Attorney General accuses Sen. Mark of insulting the people by suggesting that we should retain the safeguard of the Privy Council and, from my experience, I support him. The Attorney General seeks to sanctify the Judiciary when the Government itself has attacked the Judiciary with such tremendous energy.

The Attorney General has asked whether the courts of this country are not worth its salt. That is a strange thing to hear from an Attorney General whose Prime Minister did not believe that the Chief Justice was worth his salt. We have had interference with the Judiciary that makes us extremely cautious as to how to go about jettisoning the Privy Council in terms of ensuring the rights of the citizens of this country.

The Attorney General presented the idea that, in the Government's almost divine view, this legislation is unconstitutional, and goes to great pains to quote Lord Bingham, who in a minority opinion, disagrees with the board. It is strange that she would want to quote a minority to justify her own minority view; that a matter which has proven to be constitutional was possibly unconstitutional. *[Interruption]* Is it a point of order?

Sen. Annisette-George: A point of clarification.

Sen. M. F. Rahman: If it is not a point of order, I would like to not give way at this point. Mr. Vice-President, I get derailed—

Sen. Annisette-George: Mr. Vice-President, if the Member is going to quote me, he should do so correctly. The way he is quoting me is imputing improper motives. *[Interruption]* Standing Order 35(5).

Sen. Mark: He is not imputing improper motives.

Sen. Annisette-George: Yes, He is imputing improper motives by saying that I am using a minority view to promote my own minority view. The way the point was put is not that it was a minority view, but that it was a difficult issue and there was justification in the view that was held. It was not a cut-and-dry issue; it was subject to doubt and there was support even at Privy Council.

Sen. M. F. Rahman: Thank you. Mr. Vice-President, I am disappointed that the learned Attorney General has resorted to a point of order that is not really valid. I respect the Attorney General, but I also see, with great irony, that she is forced to support a government even in the wrong.

I said that Lord Bingham, in his minority view, supports what turns out to be the minority view of the Government in the first instance. I have said that there are alternatives. Put the law out and let it be challenged when a case comes up, but you cannot claim a divine right to suppress what the Parliament has passed and then say that we are insulting the people when you insult the Parliament. You cannot have your cake and eat it. You cannot say that we are insulting the people and think that you are free to tell the Parliament you do not care what it passes.

Some time ago, I asked a question which qualified for an answer since Thursday, April 10, and up to now this written answer has not been given. Fortunately, the Attorney General has paid me the courtesy of giving me a preview of what she would like to answer, subject to Cabinet approval. The question was: Could the hon. Attorney General please inform this Senate:

- (1) How many bills have been dually debated and passed by Parliament since 2000—

Mr. Vice-President: Sen. Rahman, we are not at question time here. [*Crosstalk*]

Sen. M. F. Rahman: Mr. Vice-President, you are pre-empting me, Sir.

Mr. Vice-President: Sen. Rahman, you are reading out the question. It is not question time here.

Sen. M. F. Rahman: Mr. Vice-President, with the document out of my hands, I am trying to tell you that I qualified for an answer and an answer has been intimated to me and the information pertains to this issue.

Sen. Annisette-George: Mr. Vice-President, the answer was circulated.

Mr. M. F. Rahman: I have not made my point.

Mr. Vice-President: Go ahead and make your point.

Sen. M. F. Rahman: I am seeking to say that I can produce evidence to support my view that the Equal Opportunity Act was suppressed deliberately by the Government for seven years, along with 23 other Bills that were passed in Parliament and never proclaimed.

4.15 p.m.

Sen. Annisette-George: It was proclaimed since 2000.

Sen. M. F. Rahman: Worse, worse! Proclaimed and not implemented? It is worse. You proclaimed and you did not implement? The whole story of the Motion today is to implement it. What is the word? It is to implement and operationalize. It is one thing. [*Interruption*] Yes, I would read the Motion.

“Be it resolved that the Government takes immediate steps to have the Equal Opportunity legislation proclaimed and fully effected, implemented and operationalized in the Republic of Trinidad and Tobago.”

They proclaimed and they did not initialize and 23 more remained unproclaimed. [*Interruption*]

Hon. Senators: Initialize?

Sen. M. F. Rahman: Sorry, operationalize. I beg your pardon. Unfortunately I was not reading. The point I am making is that the absolute—Hello, are you telling me that the President proclaimed it and you still did not implement it? Now, you are insulting the President. We are insulting the court and the people of the country and your hands are clean. You do not insult the Parliament or the President. If the Attorney General had gotten up here today and said: “Yes, Sen. Mark, you have brought a wonderful Motion. We agree with you for reasons we are embarrassed about. We have not implemented this. We are in the course of it and we are proceeding post-haste to do it. Thank you very much.”; that would have solved the problem. I would not have had to get up and talk. In order to look good in the debate—they like to look good, the country must look good and Trinidad and Tobago must look good in the eyes of the world—you made a fool of yourself. You are making a fool of yourself by seeking to defend the indefensible. This is a very important thing.

Maybe we do not see the Government discriminating against minorities, but it is worse. It is discriminating against one or two things. This is very important. It has been suggested that the Government discriminates against a large segment of the population. You do not have to be a minority to be discriminated against. You can discriminate on the basis of gender. There is no minority in gender. You do

not have to be a minority. We have a situation here where 35 per cent of the population is of one ethnic grouping and 35 or 36 per cent is of the other and the balance is mixed. There is a distinct case of discrimination being practised in this country.

When Sen. Mark can get up and say, unchallenged, that the PNM Government sought to use affirmative action to institutionalize racism in this country, and nobody says a word on that side, even in a pretence of a defence, you have to ask yourself: What is this Government really guilty of? It is not enough for the Government to have done a few good things through the years.

If we were to start to thank the Government for the good it has done, we would have to go back and thank the colonial government, all the other people who contributed to this country and as was recited by Sen. Ryan Spicer—
[*Interruption*]

Hon. Senators: You are right, recited.

Sen. M. F. Rahman: Many of the accomplishments of the UNC government initiated many things of great benefit for this nation; things that you have to bear cognizance to.

There is another way where discrimination takes place. There is a little thing called a party card. “If yuh doh have ah party card and yuh doh get ah job—
[*Interruption*] That is if, if, if “yuh doh have ah party card”. You can have discrimination without a minority.

Mr. Vice-President, when you think about “Trintosingh”, you want discrimination more than that? [*Interruption*] Sorry, it was Petrotrin. “Petrosingh”, thank you very much. When you have “Pertosingh” being articulated within the Chamber of the House of Representatives by a person who is now the Prime Minister of this country, you want to know the genesis of the racism and the possibility of discrimination?

When you have the Minister of Local Government playing the role of a representative of the people, having been appointed a Senator, and going to look after PNM affairs in constituencies, then you have to ask yourself— [*Interruption*]

Sen. Manning: Because we care.

Sen. M. F. Rahman:—with the thousands of houses that are being built and no explanations as to how the allocations are being done, what kind of card do you have to hold to enter those houses?

Sen. Browne: Lottery.

Sen. M. F. Rahman: Lotteries can be rigged. You have the avowed and expressed intention of the Government to integrate the communities. The Government has, in the past, clearly defined its intent to integrate the communities. Connect the dots. You want to integrate the communities, you are building houses and planning to make communities PNM and win them over. You have to be very stupid to swallow the idea that discrimination is not rampant in the policy of the Government. I know it seems as though I am on a very unpopular Opposition Bench. I really got caught having to run from outside and indicate that I wanted to talk. I did not imagine that this would have gone in this direction.

The interchange is one of those areas where anything the UNC initiated—of course they have redone the design, perhaps wisely, because I do not know how those cables would have held up in a good storm. The whole idea, I can see it, is that because the UNC initiated something, the PNM would not follow through. You have to wait four—seven years to pass—

In the meantime, the Equal Opportunity Act is being suppressed and you have injustice being wrought on the people of the country. Injustice is being wrought on the people of the country while you suppress this very important piece of legislation. Not only must justice be done, justice must appear to be done. Not only must you claim to be acting without discrimination. We are talking about discrimination against the population, but there are other ways you can discriminate. You can practise nepotism and appoint your near and dear ones to be in cushy positions and you could also fire the “fellas who eh toeing yuh line”.

The Attorney General was quoting a very discriminated-against man, former Minister Fitzgerald Hinds. I feel so sorry for Mr. Hinds. He would always tell me: “Why yuh supporting ah party that so corrupt?” Now, he is the one, together with Dr. Rowley, who is raising the question about morality in the Government’s affairs and asking whether President ANR Robinson really did the right thing when, with a minority in the vote of the population and an equal number of seats, as Sen. Mark said, the Government was parachuted into Government. I like the expression. There could have been nothing more immoral than that appointment at that time. That has to go down in history as the turning point of democracy in this country to autocracy and an autocratic form of government that has been engulfing this nation from that time on. We have steadily gone down the road of a Mugabe-type of—I am sorry to say—governance. We are very, very fortunate in this country that we have foreign investments because if we did not have the

foreign investments that we have here, we would not have had—[*Continuous Interruption and Crosstalk*] Are you hearing me Mr. Vice-President? The chorus here is very, very loud and I cannot hear myself. I hope the *Hansard* reporter is hearing my words. I get some very interesting spellings, not only spelling, but words coming up in the—[*Interruption*]

Sen. Manning: You are attacking them now?

Sen. M. F. Rahman: Yes, a couple of phonetic renditions of some of my words that are very, very amusing sometimes. But, anyway—

Mr. Vice-President, since the appointment of the PNM over the UNC, even the UNC got the greater number of popular votes at any time. We had that period where the President exercised his right of delay or something Mr. Best had sought to dignify it with. Steadily, inch by inch, foot by foot and yard by yard, the governance of this country has traversed along the road of a dictatorship where today, the population is being discriminated against insofar as its own rights concerned.

I have raised it a number of times,—and I have been treated to a superior air of knowledge—that we have a situation here where injustice has been meted out to the population from on high, in areas where there was never any need for the people to be so penalized by the Government. The Government has gotten to the stage where it discriminates against the very people who voted for it.

I spoke about the Stockholm Syndrome some time ago in this Chamber and I want to repeat it again. The people who are being abused by this Government through the years and particularly since 2001, have become so repressed that they actually feel a “kindredness” and affinity to the Government which has been violating their rights. The constituencies that return this Government are crying out for community centres and justice.

Right now, in Richplain, Diego Martin we have stories coming out as to what really happened that caused this confrontation. We have a situation where the—[*Interruption*]

Mr. Vice-President: Hon. Senators, it is now 4.30 p.m. We would take the tea break now and we would resume at 5 o'clock. This sitting is now suspended.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Sen. M. F. Rahman: Mr. Vice-President, thank you. How much time do I have?

Hon. Member: Too much.

Mr. Vice-President: You have 16 minutes of normal speaking time.

Sen. M. F. Rahman: I was on the point of repeating this problem that the country faces under the present Government; this question of the Stockholm Syndrome aspect that I am talking about which returns it to Government from time to time. This is very real.

One of the things that we have to understand is that one does not have to discriminate between minorities and majorities. When a Government fails to discharge its duties of governance of the population and gives special attention to certain segments or sectors of the population or the economy it could, in fact, end up discriminating against the other segments and sectors of the population and the economy.

We have had an increasing vehicle population in this country for years. I understand that for years we have had plans of designs for highways in the Government's possession which were prepared by Government's engineers to increase highways all over the country, particularly into the city from the east and the south and these highway plans which are there in the Ministry of Works and Transport or wherever we keep our plans and approved designs and so on. These have been in the possession of the Government for years. Everybody can see that there is a growing vehicle population and now one has to spend four hours a day or it could even be more than that—two hours coming into Port of Spain and two hours going out—as a normal daily routine if you are coming from the east, and it takes maybe five hours coming and going from the south, and we have a centralization of Government.

What we have is not only the Government neglecting the infrastructure that would make life easy for the population—it is not a question of not having the funds—but what the Government has been doing for the longest while is concentrating on mega structures in the city that deny the rest of the population the expenditures that should go toward alleviating the problems and difficulties of the population. This is a form of discrimination which the Government practices which gives preference to its own concept of a vision where you can see massive buildings, but if you take an aerial view of the highways in the morning and in the evening, people are in pain. Children are with their parents and they get home at 7 o'clock and 8 o'clock at nights and they have to leave home at 5.00 a.m. to get to school and to get to work.

Mr. Vice-President, this misfocus of priorities is a problem that the Government has in prioritizing its programmes. They do not seem to have a clue. What I am trying to explain here is so simple to understand. They are not doing the things that they are supposed to be doing and they are denying the people their comforts and their rights. Do you know something? You could imagine the excessive amount of vehicle fuel that is burnt; the excessive amount of carbon monoxide that is being emitted into the atmosphere. Could you image the domino effects in terms of the amount of mileage that is accruing to the population and the country as a whole, simply because the Government does not see it fit to implement the things that would benefit the population, but rather do the things that would make the nation look good. This is becoming an obscene thing for me to hear: “The Government wants to make the country look good in the eyes of the world.”

We have had conformance legislation brought to this House to meet the demands of foreign treaties and so forth, and those items that are vital to the interest of the people like the children package of legislation which did not require the extensive overhaul that the Government has claimed—again, even if you had legislation that might have been effective which the Government supported in the prior passing of that legislation, you have suppressed the legislation and did not proclaim it and effect it, and kept it in that condition for all those years simply because it is a UNC thing, but you were really exposing the population and the children to such atrocities.

Mr. Vice-President, the whole question of equal opportunity does not hinge upon after somebody has been flagrantly discriminated against—you are white or you are black or you are an Indian or an African, so I do not want anybody like that in my establishment. It is not that. Equal opportunity must preexist in a country that is properly governed. We should not have had recourse to such legislation if this country had been governed with the wisdom that it should have been governed with in previous administrations led by the very same Government that sits on that side today.

We have an ongoing travesty against the people of the country. It seems that human rights do not matter very much in this country. Human life is being downplayed. The value of human life is not understood by this Government. Everything for them is collateral and you have to face up to that in the present circumstance. In the rest of the world, there is a lot of murder and crime going on so we have to put up with that.

Mr. Vice-President, this whole matter has to cause the Government to do a second take to think over its policies to be able to deal with the population that

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has mandated it to govern it. It is a matter of discharging the duty that the people have placed upon them.

Mr. Vice-President, not only does the Government suppress legislation—the Attorney General talks about not insulting the courts, but when the court passes a judgment in favour of somebody and against the Government, the Government does not say, okay, in the interest of settling this matter, the courts have agreed that this matter should be settled—we are going to go along with the ruling of the court, but it appeals.

The \$51 million that was given to the maxi-taxis in the case that we all know about, the judgment is very clear, but the Government says that it is not going to pay that. It is going to take that down to the limit—Appeal Court and then the Privy Council—and after 10 years they will have to pay. As a responsible Government, the Government should say, okay, the people won the case, let us negotiate.

In the American system, you can win a case and the other side still has a chance to negotiate with you to bring down the claim. [*Interruption*] The whole question of the appeal is that you do not care what the court says, and you have to be forced to go to the Privy Council to twist your arm to get you to do what you are supposed to do. You would use every excuse that you can find to prolong the matter and not give the population the right that is theirs.

With respect to the maxi-taxi matter, you could find \$500 million to buy a jet and that \$51 million is too much. If that jet had been bought, we would have been saddled with it for the rest of our lives.

Sen. Cummings: Mr. Vice-President, on a point of order—

Sen. M. F. Rahman: He is going to try again, Sir.

Sen. Cummings:—Standing Order 35(1). The contribution of the Senator is totally irrelevant to the Motion. [*Desk thumping*]

Mr. Vice-President: I am going to allow the Senator a little more leeway, but I hope that the Senator will make his point and move on.

Sen. M. F. Rahman: I am much obliged. I am beginning to feel that you are on my side. [*Laughter*] When you do not do what is necessary—do you know this thing called brakesin that we talk about in Trinidad? The judgment has been given against the Government and they want to brakes. [*Interruption*] Are you following the man that you want to condemn? Then you have no moral authority and it is hypocrisy. What I am saying is to give the people their dues.

You know this matter of misallocation—public property—you discriminate against me when you reduce the buying power of my dollar. When you reduce the buying power of my dollar and you cause the benefit of that to go to the banks, you are discriminating against me. This is the economic discrimination to which I alluded earlier. There are different ways of discrimination which this Government practises. This appears to be irrelevant to the young Senator on that side, but this is a very real situation. It is like a little bully coming up and taking the money from his colleague, and reducing the money that his colleague has to spend. That is theft. If the principal hears about it and does nothing, then he is discriminating. He is supporting injustice.

We are talking here about equal opportunity and equal opportunity equates good governance. If you spend the people's money to the benefit of the people, the people would have no cause to complain. It is not only a matter of jobs. What we have here is that we do not have promotions on merit, but on years of service. I cannot even begin to go into all the intricate areas where discriminatory practices have become endemic in the fabric of the Government's performance. Again, these words seem to go past the Government. They need to do a review. They are so busy trying to shut us up on this side and to disagree with us that they do not listen to the words that could lead them to better governance. This is all being said in the national interest.

Mr. Vice-President, you may not believe this, but when I came here today, I was not really expecting to even contribute. It is amazing that the number of things that have emerged out of this little debate—the performance of the Attorney General trying to show the Government in a good light. All that the Government needs to do now is to progress the matter, appoint the tribunal, get the building going and do what you have found the excuses to not do for seven years and progress the matter. When you say that you have been doing this and that, it does not admit to what you have not done. We are here to tell you what you have not done and to do it. The people are groaning. The people are groaning more than the Government groans when I talk. This is a serious situation.

Mr. Vice-President, Sen. Wade Mark mentioned that in one of his attempts to revive this legislation last year, the Government had proposed implementing a fine of “one hundred thousand dollars or to imprisonment for two years” if complaints were deemed to be frivolous. That is such a wicked proposition. You are telling the people that you are going to shoot them down if they only make a mistake. You

are intimidating the population. That is intimidatory tactics that the Government tried to implement. If anybody could try to justify that it would be more shameless on their part.

When I heard Sen. Wade Mark reveal that, I could not believe my ears. I said that I really have to get up and say something about this matter. What we have here is a Government that was so intent upon suppressing the Equal Opportunity Act, and now it is being stamped into implementing—it is claiming that it is going about this as expeditiously as possible.

5.15 p.m.

What has happened is that with the Privy Council ruling, the Government has been stamped into looking very busy about implementing what it should have done seven years ago. It is disgraceful to hear that they try to— Instead of saying if any action is brought that is failed, we will pay the bill because you have the right as citizens to bring these matters to the courts—and this is an area where very few people, except moneyed people, can afford to go to court or take the Government to task for anything—the Government rides roughshod over everybody and it implements as it wants; it does not implement as it should. If a party wants to mount a case, they have to find a man of straw to be able to mount a case and at the end of the day—

Mr. Vice-President: The hon. Senator's speaking time 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. M. F. Rahman: Thank you, Mr. Vice-President. I am always very flattered at the response of the other side when it comes to my getting an extension of time in the normal course.

Not only does the Government seek to repress the law, it seeks to put a spoke in the wheel of the people who have a legitimate cause to bring in complaints. Imagine, you will tell a poor illiterate man who feels he has been discriminated against, who comes and writes his little note and takes it to the Commission; “Yuh old fella, this is a frivolous thing, pay \$100,000 and go to jail for two years.” That is so—I should not be repeating this so much, but I want to impress upon the other side that the genesis of that is devilish and wickedness.

Hon. Senator: He is repeating.

Sen. M. F. Rahman: I had to repeat that part, you know; I had to repeat that part. Imagine, Sen. Wade Mark got up and the Attorney General did not deny this, in the case of the Maha Sabha applying for the radio licence, Government is said to have actually given false information to the court on two occasions.

We have a new set of people on that side, they have to start to understand that is not the way to govern, and whoever are the common figures from the last administration to this administration, you have to watch them to see which direction they are going to lead you into, because, you know what, we are going to have a continuing of these violations against people's interest. These people who will not allow a radio station, claiming to have supported the Equal Opportunity Act and only held back because it had some question marks in its constitutionality. You cannot buy that! Who could buy that in the light of the performance of the Government, when it seeks to trammel the Act, to suspend it, to suppress it and to deny equal rights to even organizations that represent such a fantastic segment of the community. One has to really wonder, who is it that we are trying to fool.

Now, the present administration, constituted as it is, may not intend to discriminate, I want to be fair, but you see when you come and justify the discrimination that took place for so long we have to get suspicious. You do not intend to discriminate but you are going to end up following a leader whose modus operandi revolves around discrimination. You have to be very careful. Again, I want to appeal to the other side to reassess the direction of the Government that they serve and to make inputs even privately, at Cabinet level or whatever level you have to and try to reform the aspects of the administration that are being impacted so negatively upon the population and the welfare of the people.

One of the things that has always bothered me and this is where I was talking about the buying power of the currency. We have had again and again, glib answers: our imports and our exports are denominated in US dollars and so and so and so, to justify the continued tie between our dollar and the US dollar. Several years ago, we used to be tied to the pound sterling and when the pound started to fall rather badly, the government of the day—which I think was a previous PNM government—had enough sense to delink from the pound sterling and to move over to the US dollar. The time has come to look at that again, because with all of the rising costs that we have been facing in terms of food prices, building materials and all of the other escalating costs, to a large extent that is due to the fact that with the falling US dollar, everything that we import outside of the US dollar dominions and even though the denomination might be in US dollars—

Sen. Rogers: Mr. Vice-President, on a point of order, 35(3), the Member is bringing up a matter that has already been decided. [*Crosstalk*]

Mr. Vice-President: Senator, you are being repetitious in the sense that you have brought up the matter of the dollar already in your contribution, so I will rule on relevance; you are going back into it again. So, please proceed and get back to the Motion.

Sen. M. F. Rahman: I do not understand, Sir. I dealt with this matter in this debate or previous debates?

Mr. Vice-President: In this debate.

Sen. M. F. Rahman: No, I made reference to the purchasing power of my dollar, but this is the first attempt I am trying to show where the Government discriminates against the whole population and neglects its duty to the people whom it is violating by this omission. You see, this matter about currency is not a matter that will end today. Until the Government makes a decision to reverse its position—

Mr. Vice-President: Sen. Rahman, I already ruled on the matter with the currency. Could you proceed with your debate.

Sen. M. F. Rahman: Mr. Vice-President, I bow to your ruling, Sir. [*Crosstalk*]
[*Laughter*]

Mr. Vice-President: Order! Order!

Sen. M. F. Rahman: Mr. Vice-President, I will wind up at this point. [*Desk thumping*] And again, I want to thank the Government Benches for the enthusiasm it has displayed during the course of my contribution. The matter that has been deemed irrelevant at this point, I grant that maybe it had been mentioned. Unfortunately, I did not dilate upon it in the way I ought to have at the point in which I mentioned it, I grant you that. But since the Government is being constantly embarrassed about this matter, about currency values, we will have to find a way in the future—

Mr. Vice-President: I have ruled on currency matters, do not try to bring it back into the debate. Okay?

Sen. M. F. Rahman: Sir, I was winding up, you know. [*Laughter*] I was simply making a couple of comments in conclusion. Having suffered an arrow in my leg [*Laughter*] I simply wanted to make reference to the issue.

So, with good grace, I bow to your ruling and I thank you so much.

Adjournment

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ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Thank you. Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday, July 01, 2008 at 1.30 p.m. Members would have received a notice dated June 23, 2008 from the Clerk of the Senate, advising that it is our intention, if this Bill is successfully debated, as it is intended to on Monday, June 30, 2008 in the other place, that it be debated here at our next sitting. The reason for this is because this Bill has a July 08 termination date and we propose to move the extension of matters related thereto, as is contained in the Accreditation Council (Amdt.) Bill that was circulated to Members of the Senate. That having been completed, then we will continue with the Geneva Conventions Protocols that we stopped on the last occasion.

Mr. Vice-President, I beg to move.

Mr. Vice-President: Hon. Senators, leave has been granted for a matter to be raised on the Motion for the Adjournment of the Senate by Sen. Wade Mark.

Sen. Mark: I have about 10 motions.

Mr. Vice-President: Two.

Immigration Department (Issuing and Renewing of Passports)

Sen. Wade Mark: Thank you very much, Mr. Vice-President. I rise to speak on a very important matter that is affecting large sections of the population of the Republic of Trinidad and Tobago. It centres around the challenges of the new system introduced by the Minister of National Security or through him the immigration authorities aimed at eliminating the long lines outside the country's immigration offices.

It appears that passports are being issued in this country by a lotto or a lottery system, just like the government houses. May I advise this honourable Senate that a passport is a right, an entitlement of every citizen. It is critical to freedom of movement and in the case of business persons and professionals, it is critical for them and to them as it relates to the conducting of business and the earning of their livelihoods.

Under the Constitution of this republic there is freedom of movement and that freedom of movement is now being infringed by what is taking place at the immigration authority level. We have received several complaints over the past few weeks, over the inefficiency of the Immigration Department in issuing and renewing passports.

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What is even more alarming, Mr. Vice-President, is that the Government has undertaken to issue 250,000 passports and the deadline for doing so is next year January. My information is that come January 01, 2009, if you do not have a machine-readable passport you cannot travel outside of Trinidad and Tobago. That is what I have been informed. So, I would like to know, in light of the inefficiencies as it surrounds the Immigration Department in issuing and renewing passports, what is to happen to thousands and thousands of citizens who would like to access their passports.

5.30 p.m.

The new telephone hotline system for appointments is nothing short of a nightmare, a virtual raffle system, because passport appointments are only being granted through the hotline system. The lines are always busy. It is a virtual luck and chance to get through to the hotline. You have to be lucky to get a passport in this country. This is madness and the Government has to intervene in this matter.

We, at the Leader of the Opposition office, have received hundreds of complaints concerning this situation. Our elected Members of Parliament have also received countless calls from constituents who need to get new or renewed passports and they cannot get an appointment.

I want to relate a live issue, a real issue involving a citizen of this country. This particular individual was told by the immigration authorities that if you need a passport, a new machine-readable passport, your old passport must expire. If it is not expired or it has not been expired, you cannot seek an appointment to get a new or renewed passport. This is one way to slow down the workload I suspect coming to this department.

There is a particular individual who has reported to me an experience he recently had. He just got a new job or secured a new job. He is an engineer by profession. His new employers, a large manufacturing firm wants him to attend a training programme in Canada. It is important for his job and it is preferred that he attends this course before assuming substantive duties with this particular company.

In other words, the company's work will be put on strain until he completes and returns from this course. This individual's passport has expired. He did not rush to renew it because he had no foreseeable travel plans until now. My passport has not expired, mine is up to 2014. But in this instance this individual like most people, he dreaded getting up in the middle of the night to camp outside the passport office with the outside chance that he may not get in and have to go

through that suffering again. When he was hired for this new job some weeks ago and advised of the need to travel, he immediately called the passport hotline to get an appointment. For almost four weeks in his instance he was getting a busy tone and after spending a whole day redialing the hotline number he was lucky to get a ringing tone. Imagine to get a passport in this country, in the 21st Century you have to call a hotline and spend days hoping to get a ringing tone! What inefficiency and madness we have taking place in this country?

This gentleman was lucky when he tried to get this dial tone, he was lucky he got through, and his call was put on a waiting list of about 20 persons. He had to hold the line because 20 persons were before him and when someone answered, they told him that the earliest date to get an appointment to get your passport which is your entitlement is at the end of November 2008. Imagine this! At the end of November and do you know what he was told, he must travel to the Sangre Grande passport office, and this gentleman lives in Chaguanas. Would you believe that in 2008? And after he explained his predicament he was given a phone number to call in Port of Spain—the Immigration Office here—where he could beg someone for an early appointment for him to get an earlier date.

Now this person has not been able to get his passport as yet. He needs a Canadian visa, but he cannot get a visa until he obtains his passport. Now, Mr. Vice-President, what is happening to business organizations, business personnel and professionals in this country? What is the state of play in this particular situation? This involves an engineer, a professional who brought his plight to my attention. The time has come for the Government to do something about the madness. This is nonsense that is taking place in this country. There is no reason for this kind of development that we are experiencing here today. Why can the immigration authorities not decentralize their operations and their services? How hard is it to open sub-offices as the Licensing Department has done in St. James, in Chaguanas and other parts of this country where application forms can be collected and passports distributed?

How, Mr. Vice-President, with the PSA support, can we not have a 24-hour round the clock service seven days a week in order to make sure that people obtain their passport? School is about to close shortly. Parents want to take their children abroad, those who can afford it. They want their passports. How are they going to get a passport when they want to take their children in the month of July or August so that they can go to Barbados or they can go, for instance to Grenada, or they can go to Anguilla, or they can go to St. Georges, Disneyland or wherever.

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Why is it for instance we have a situation where parents in this country would not be able to obtain a passport because when they ring the hotline they are being told the earliest appointment is November, December or next year January and February. What is going on in this country? Is that, Mr. Vice-President—

Sen. Annisette-George: Local tourism.

Sen. W. Mark: You call that local? Attorney General, I think better you shut—am, “she better doh say nothing”!

Hear the nonsense the Attorney General is telling us, “local tourism”. What nonsense is that, Mr. Vice-President? I want to take my daughter to Disney World; you are telling me local tourism. I want a passport for my daughter to take her abroad just as Sen. The hon. Mariano Browne would want to take his daughter or his son to Barbados, what are you going to tell the honourable Minister? Local tourism! No, no! Mr. Vice-President, I reject that position completely.

What is causing this madness? We understand friends of the Government are able to get special treatment to get their passport and other citizenship expedited whilst ordinary Trini—

Hon. Senator: [*Inaudible*]

Sen. W. Mark: I am not your friend—cannot even get a passport to fly to Barbados or to Miami. I understand Calder Hart was lucky, he got his passport. He has a machine-readable passport and plus he got resident status, courtesy the Minister of National Security of course.

Mr. Vice-President, I am raising this point and this issue in all seriousness. This is a matter in which I believe a citizen or citizens will take this Government to the courts of this country. You are violating the constitutional freedom and rights of the citizens. Under the Constitution we are entitled to freedom of movement and one of those conditions attached to freedom of movement is for me and any citizen to have a passport so we can travel freely in and out of our country. Why has the Government not put its house in order to ensure that that system is in place?

If what I have been told is correct, that the Government is supposed to issue 250,000 passports and come January 01, in accordance with an agreement they have struck internationally, January 01, 2009 machine-readable passport or you cannot travel. That is what I have been told. I do not know if it is January 01, 2009 or December 31, 2009. What I do know is the deadline is 2009. That is what I know. [*Interruption*]

So, Mr. Vice-President, this is a very serious issue. [*Interruption*] The citizens want answers. The citizens demand answers. They want the Government to get that Immigration Department operating properly. If, as I said, you need seven days a week to get that passport office going, you need to have people around the clock, get those people involved and pay them overtime. Get sub-regional offices; decentralize your operations so that people can obtain their passport.

I would like the Ministry of National Security to tell us this afternoon what contingency plans is the Minister putting in place to ensure that when school closes in a few days or a few weeks from now—I think a few days from now—you will have a situation where parents and their children can obtain their passports easily and without any kind of difficulty.

I thank you very much, Mr. Vice-President, and I hope the Minister would be able to respond adequately to the needs of the population. [*Laughter*]

The Minister of National Security (Sen. The Hon. Martin Joseph): Thank you very much, Mr. Vice-President. I am here to respond to the Motion on the Adjournment: The challenges of the new system introduced by the Minister of National Security aimed at eliminating the long lines outside the country's immigration offices.

Mr. Vice-President, hon. Senators, when the machine-readable passport was introduced, there was an influx of persons seeking to apply for the new travel document. In an effort to secure a number in the first come first served arrangement, persons began assembling at immigration offices, particularly in Port of Spain, from as early as 3.00 a.m. in the morning.

The Ministry of National Security, in seeking a solution to this unacceptable and highly publicized situation, began looking at mechanisms to improve the delivery of passport services to the citizens of this country. These mechanisms included more passport offices in Trinidad and Tobago, improved infrastructure, introduction of an appointment system and ensuring the readiness of the overseas missions to accept machine-readable applications. While the other initiatives like acquisition of additional offices, et cetera, were being executed, it was recognized that the appointment system was a viable and immediate option that could be explored to eliminate the long lines.

Three focus group sessions to source feedback on a proposed appointment system were therefore conducted comprising randomly selected participants from across Trinidad and Tobago belonging to the low, middle and high income brackets. Basically, the focus group findings underscored the sentiments being

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expressed, that people were disgruntled with the operations of the Immigration Division, particularly the quality of customer service including the issue of timeliness. Most participants support the introduction of an appointment system.

Taking on board these findings and considering the fact that appointment systems are trusted and utilized in developed countries as the mechanism by which people apply for their national passport, it was determined that the appointment system would be the best solution to alleviate the long waiting lines outside the Immigration Division. The ministry finalized and launched the appointment system on April 15, 2008.

The Ministry of National Security engaged the services of TTPost call centre located at TTPost head office at Piarco to receive calls from the public and schedule appointments for the various immigration passport offices. TTPost began receiving calls on April 15, 2008 through the assigned number 669-4MRP or 4677, with the first appointments being scheduled for Tuesday, April 29, 2008.

5.45 p.m.

In an effort to avoid the undue burdening of the system, the Chief Immigration Officer requested that only specific categories of persons submit applications. These were:

- persons who had never had a passport;
- persons whose passports had insufficient space for entry visas and immigration entry and exit stamps;
- persons whose passports had expired;
- persons whose passports would expire by the end of 2008; and
- persons who needed to effect a name change.

From the day the appointment system was launched, it was inundated with calls, a situation that, from all reports, continues to date.

Thus far, 11,937 appointments have been scheduled and a total of 12,870 machine-readable passport applications have been received. Additionally, it should be noted that the offices continue to process emergency applications on a case by case basis.

Mr. Vice-President, it is fair to conclude that the appointment system has been successful in achieving its primary objective, which is to eradicate the long lines outside the immigration offices. However, there are some teething challenges to be addressed.

In reviewing the operations of the new system, the Immigration Division has identified two key challenges:

1. The large volume of persons who are having difficulty in accessing the service, 669-4MRP. Since the launch of the system, the TTPost Call Centre has received in excess of 1,000 calls per day and has scheduled a full 355 appointments for each day thus far. However, from all reports, there are still persons who are encountering difficulty in accessing the 669-4MRP service.
2. The next key challenge is the need to increase the capacity of the Immigration Division to process applications. The temporary closure of offices at Point Fortin and Chaguanas for upgrading, means there are fewer offices available for which appointments can be given and applications processed.

Additionally, foreign missions have not yet started receiving applications. Citizens who live abroad, therefore, grasp the opportunity during visits to the country, to apply for their machine-readable passports, placing additional pressure on the system. This is particularly evident during peak travel seasons.

Further, due to the absence of offices at Chaguanas and Point Fortin, the lead time for appointments is becoming longer. Therefore, if a person makes an appointment today, their appointment date would be likely between August and September 2008, depending on their preferred processing site. In Port of Spain and San Fernando for example, it has exceeded four months and in Tobago and Sangre Grande, three months.

Mr. Vice-President, from the foregoing, it is clear that the TTPost Call Centre and the Immigration Division infrastructure, and internal processing systems must be more robust. This will become even more critical as the deadline date for acquiring the new passport, December 31, 2009 approaches. The deadline date, December 31, 2009. The Ministry has identified a number of mechanisms that must be put in place to upgrade the operation of the appointment system and the passport issuing system generally.

1. Upgrade the operations of the call centre: The Ministry is working with TTPost to ensure adequate resourcing of the call centre, including human resource and technology, so that more people are able to access the 669-4MRP line on a daily basis.

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The Ministry is adamant about ensuring that the quality of this service is improved. When we embarked upon this service, it was the Ministry's intention to revolutionize customer service within the Immigration Division, and we are determined to provide our citizens with the best customer care. If it is determined, therefore, that the current vendor is unable to satisfy this criterion, the Ministry will pursue alternative options until it is satisfied that its excellence in customer service objective is achieved.

2. Re-engineer the business processes of the Immigration Division: Re-engineering the business processes of the Immigration Division's passport service is currently undergoing. Under review are factors such as transaction times for each activity in the passport process, with a view to improving the efficiency of the Division and the overall customer experience.

In seeking to enhance the organization's capacity, the Ministry is ensuring that the human resource requirement for all aspects of the Immigration Division's activities is adequate. The Immigration Division is therefore actively seeking to increase its staff through the recruitment of an additional 195 persons, comprising support staff and 154 Immigration Officers as follows:

- Deputy Chief Immigration Officer—1;
- Assistant Chief Immigration Officer—2;
- Immigration Officer IV—4;
- Immigration Officer III—11;
- Immigration Officer II—96;
- Immigration Officer I—40.

This increase in manpower will allow the Immigration Division to operate additional shifts and to deploy additional staff to the passport production section. The division is also exploring the option of a 24-hour operation of its MRP production section, to ensure that it can keep up with the demand.

At the international level, Cabinet recently agreed to the creation of six temporary positions of Immigration Attaché for assignment to the foreign missions at London, Washington, Toronto, Miami, New York and Caracas. The Chief Immigration Officer is currently working with his HR Unit to identify suitable candidates to fill these positions. These missions are also scheduled to become operational and begin receiving applications for the MRP in August of this year.

To optimize the division's capacity to receive applications, the Ministry has identified appropriate facilities and is expediting their refurbishment to accommodate offices at Point Fortin and Chaguanas. At present, the refurbishment work is 90 per cent completed and the facilities should be ready for occupation by July 2008.

The division has also received approval from Cabinet and the Central Tenders Board to acquire additional equipment and resources for the local offices and overseas missions, and is awaiting delivery of these items. Included in this equipment, are 12 additional portable work stations for receipt of applications. These will be used to augment the service provided by permanent offices, locally and at the foreign missions. The units will make immigration service more accessible for the aged, infirm and other persons with challenges of varying natures, whose communities the Immigration Officer will now be able to visit, and therefore, serve more easily.

Mr. Vice-President, with the four offices operational as currently obtains, a total of 355 appointments can be accommodated per day as follows:

Port of Spain—125;
San Fernando—100;
Sangre Grande—100;
Tobago—30.

When the two other offices are reopened, the manpower increased and additional equipment procured, this will be increased to 700 appointments, which represent a 97 per cent increase in the number of appointments that can be accommodated on a daily basis, as follows:

Port of Spain will go to 200, an increase by 75 per day;
San Fernando, 125, an increase by 25 per day;
Chaguanas will process 125;
Sangre Grande, 100; does not change;
Point Fortin, 100;
Tobago, 50, an increase by 20.

This would also effectively reduce the lead time between when the appointment is made and the actual appointment date. The division envisages that that period would be reduced to no more than one month.

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As the Immigration Division addresses these matters with great urgency, we would again like to encourage citizens to adhere to the guidelines being issued by the division. By cooperating with the division, citizens can be assured of receiving the first-class customer service, which they deserve and which is consistent with developed nation status.

As we draw closer to the division's deadline date of December 31, 2009 for the changeover to machine-readable passports, different categories of persons would be invited to submit their applications, so as to ensure that the travelling population is provided with their machine-readable passports by the stipulated date. The Immigration Division is also mandated by the International Civil Aviation Organization to ensure that by April 01, 2010, all machine-readable passports are issued.

Mr. Vice-President, you may recall when the machine-readable passport was first introduced in January 2007, there was an influx of persons seeking to apply for the new passport, however, at one point, in excess of 6,000 passports remained uncollected. At present, there are over 4,500 passports awaiting collection. This means that maybe 4,500 persons who may really have needed travel documents and who were deprived of that opportunity by the 4,500 whose documents remain uncollected.

We are convinced that if this transition to the new machine-readable passports is pursued in an organized manner, the division would be able to meet everyone's need and to do so within an acceptable time frame. The Immigration Division is doing all within its power to bring the appointment service and immigration service on a whole to its optimum capacity, and with the cooperation of the public, we can be assured of a successful transition.

I thank you. [*Desk thumping*]

Failure of the Government (Changes to Pensions Act)

Sen. Wade Mark: Thank you very much, Mr. Vice-President. This matter I am about to address, deals with the failure of the Government to effect changes to the Pensions Act, consistent with collective agreements signed between the Chief Personnel Officer and several trade unions and associations.

The public service is like Hollywood, a lot of actors. Many people act for a very long period of time in the public service, in the teaching service and various areas of the public service of Trinidad and Tobago.

As a result of this particular deficiency in the system, parties arrived at an agreement to effect from 2004, an arrangement in which, if a public officer is acting in a particular post upon or at the time of his or her retirement, even though the substantive office is lower, the agreement that was arrived at between the parties, the Government through the CPO and the various trade unions and associations requested and demanded that those workers, those officers be in receipt of pensions at the last rate of pay in the particular office that they occupied.

This was agreed to and I have copies of the agreement involving the Public Service Association, the Trinidad and Tobago Unified Teachers' Association as examples, and I am sure, Mr. Vice-President, that once a precedent is set in the public service, all the other agencies would follow suit. So, I would expect the firefighters, the prison officers, the police and workers employed at all statutory authorities and agencies would also benefit from this particular arrangement.

But one gets the impression that there is a lack of priority on the part of the Government in addressing worker s' matters and worker s' business and it is in that regard, I have not to date as a Member of this Senate, seen an amendment to the Pensions Act, to give effect to the agreements that have been arrived at between the various public sector unions and associations and the CPO representing the Government.

6.00 p.m.

If I am a public officer and there is an agreement between my trade union and the Government, and I am acting as a Clerk IV but my substantive office is Clerk II in the public service, and I have reached retirement age, what is to happen to me, as a worker, in the absence of an amendment to the Pensions Act? Would that worker be able to go home at the last salary received acting as a Clerk IV or would that worker go home with a retirement pension as would have been granted in his substantive office of a Clerk II? This is the question.

Therefore, I call on the Government, because hundreds of workers are involved in this particular episode. There are hundreds of workers throughout the public service that are acting, and acting, and acting, and they have not been able to get a substantive appointment in the public service for maybe numerous reasons, which I would not go into this afternoon. It means that because of this development and because of the failure on the part of the Government to bring the amendments to the Pensions Act, in order to give effect to this measure— Mr. Vice-President, this particular agreement goes back to 2004, so it is retroactive.

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You have to bring an amendment to the legislation, as far as I understand, in order to give effect to the agreement in question.

I would like to, at least, get some knowledge from the Government side as to what is the status, what is the situation involving workers who are public officers and who have reached the stage of retirement or who have already retired in 2005, in 2006, in 2007, and those who are to retire in 2008. In the absence of any amendment to the Pensions Act, what would be the status of those public officers? Would they go home at the level of their substantive office in terms of pension or are they going home in their acting appointments upon retirement in a Clerk IV position? This is what I would like to find out.

This matter was brought to my attention by workers and public officers. I believe it is incumbent upon me, as a trade unionist—[*Interruption*] Once you are a trade unionist, you are always a trade unionist. You are like a soldier; a soldier never dies, he fades away.

Sen. Joseph: Like a PNM! [*Laughter*]

Sen. W. Mark: I did not hear that one; you caught me. That was one under the belt. [*Laughter*]

I call on the Government to let this Parliament and the country know, what the status is of the agreement that was entered into between the Chief Personnel Officer (CPO) and the various trade unions and associations representing the interests of public officers in this country. What is the current status? Is the Government going to bring an amendment to the Pensions Act? If the Government is so inclined, when would it be doing so?

When those amendments are brought, would the legislation be retroactive? Therefore, for all those workers who are suffering, as a result of the very tardiness on the part of the Government to rectify or to effect a measure that they have agreed upon since about three years ago, why is it taking so long for action to be effected? I, therefore, call on the Minister in the Ministry of Finance to take immediate measures and steps to bring to this Parliament, as a matter of urgency, appropriate amendments to the Pensions Act so effect could be given to the agreement, which is a legally binding document, which is registered at the level of the Industrial Court, which is binding on the State.

We would like to know, on this side, how soon, how long is it going to take the Government to bring to this Parliament an amendment to the Pensions Act. So civil servants, firefighters, prison officers, police officers, members and

employees of the statutory authorities in this country, along with other agencies, when are these workers going to enjoy the benefits that they are entitled to, that have been agreed to by the Government and the Chief Personnel Officer (CPO) with the trade unions, so that these workers could enjoy the benefits and fruits of their labour?

Pensions, as you know, is really a stream of income that one enjoys upon retirement. The pensions in the public service are very poor, because they are fixed and predictable. We have been calling on the Government to effect major pension reform, so that when people retire in this country they could look forward to a more decent and reasonable level of pension. Right now every public officer could predict how much they would get in the next few years, given the rate of increases that they have been getting, a measly 15 per cent, sometimes 12 per cent, in terms of their salaries. They could tell you, "At the end of my career in the public service, I will be getting \$1,500 a month; \$2,000 a month, \$3,000 a month, or \$5,000."

What this calls for is radical and revolutionary reform of the pension system in this country. That is why I am looking forward to hearing from the hon. Minister in the Ministry of Finance what steps are being taken to address this deficiency in the system and what proposals the Government is putting forward to revolutionize the pension system in this country. I think the Minister of Energy and Energy Industries has already indicated to this country and put us on a red alert that we cannot continue as we are going with this pension system in the public service. You either introduce a contributory pension plan for public officers, so that the system would not collapse, because you know that it is a direct charge on the public purse.

We do not have an organized pension arrangement where you can invest people's moneys and they could earn returns on those investments. It, therefore, means that the Government has a duty to tell this country what its intentions and plans are to revolutionize the pension system, so that we could assure public officers of a reasonable return when they are about to go on retirement, as it relates to their pensions and the stream of income required to keep body, soul, mind and spirit together.

I hope that the hon. Minister in the Ministry of Finance would really honour this Parliament with some degree of response in the interest of public officers and public servants generally.

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, I thank Sen. Mark for actually widening the course of this Motion and giving me the opportunity to put the whole concept of pensions in its widest context, in light of the point, and to also enable this Parliament, and the country, to understand the challenges that we face and that the country faces.

I make the point to start off with, that Chap. 23:52, the Pensions Act, does not cover the prison, police, teachers or fire services, and these categories have their own pension legislation; just by way of background. I also make the point that the pension scheme, as set out for Government, is a pay-as-you-go scheme, as pointed out by Sen. Mark. Pay-as-you-go means, by definition, that it is a charge on the Consolidated Fund and that it is not funded. It is paid out of current contributions or, alternatively, out of current revenues.

Sen. Mark also made the point that public officers could determine their pensions in advance, and the answer to that is, yes. That is one of the benefits of having any form of pension arrangement, that it should be easy, transparent and you should be able to calculate it. He is not right in saying that it was one of the worst pension plans; quite the opposite. Most pension plans are built on the concept of final average or some form of averaging down. The Government pension plan is not built on an averaging concept; it is built on your final salary; therefore, it is one of the richest forms of pension calculations. It is also done on the basis of your final salary and final payment; and your monthly pension is determined on the amount of the lump sum benefit that you take out front. That is set out in the law in terms of what your maximum is, and it is also allowable to all the private pension plans and calculated in the same fashion.

By way of background, a committee was set up in 2002 to consider the concept of pension reform, and that committee was given the following terms of reference:

- “To develop a detailed implementation plan for the reform process, including scope of works, time schedule, resource schedule, and financing schedule;
- To develop a detailed reformed pension system for Trinidad and Tobago;
- To identify conditions precedent to implementation of the reform system.”

Those weaknesses and difficulties that were identified were included in the White Paper on reform of the financial sector.

By way of Cabinet Minute 1643 on June 26, the Government took the position from a policy perspective that the reform of the system should include and should incorporate the following elements:

- “Full portability and transferability of pension benefits”—to allow civil servants to leave the government service and carry their pension with them wherever they would go and vice versa.
- “Harmonization of NIS retirement pension benefits and OAP
- Guaranteed level of income maintenance in retirement
- Introduction of defined contribution programmes characterized by individual capitalization accounts
- Appropriate integrated regulatory framework for pension industry
- Integration and consolidation of various pieces of legislation governing pension industry

Cabinet agreed to the engagement of the services of a consultant to provide technical and advisory services to Working Group”

The four components of the reform programme were set out:

1. “Develop and Introduce a Legal & Regulatory Framework for the Pension Industry in T & T
2. Harmonize and Integrate the Administration of National Insurance System (NIS) and Old Age Pension (OAP)
3. Upgrade and Modernize NIS
4. Develop and Introduce a Contributory Occupational Pension Plan for the Public Service”

I am in a position to indicate that from a regulatory perspective there were certain adjustments made to the Act, which adjusted the supervision of the pension industry, bringing it under the ambit of the Central Bank. Also, the harmonization of the national insurance and old age pension was done; that is now under the aegis of the National Insurance Board.

Upgrading and modernization of the NIS is continuing; that is also the subject of the actuarial report which was laid in the House earlier this year. We have had several conversations on that one.

6.15 p.m.

There are two other matters: the development and the introduction of the full regulatory framework and the development and introduction of a contributory occupational pension plan. Those two are ongoing and I think I need to explore a little in terms of where we are. The Government has not amended the Pensions Act although it has brought a couple pieces of legislation. In fact, if you look at page three on the Order Paper today, you will see Item 5, an amendment to 23:52. In fact, on May 09, at least four pieces of legislation to amend 23:52 were brought to Parliament. That is to recognize certain changes which have to be brought into position and also to recognize some of the changes that were identified by Sen. Mark and I am going to deal with that at the end of my contribution.

The Government has taken the opportunity to take a more holistic approach to the business of amending the pension legislation; as I indicated, the introduction of that standing committee and the development of the White Paper and the various numbers of, if you want, changes or steps in terms of the amelioration programmes I have identified. We have had one report from the consultants. The consultants were chosen by way of a competitive tender which was set out in September 2006, and the first report was presented in 2007, and I will give you the elements of that report. I am also in a position to say that the consultants have also presented an interim report at the beginning of this year and I shall also deal with that.

The engagement and the mandate of our consultants included two main activities because, of course, before you move forward, you have to know exactly where you are and the critical part in terms of moving forward and knowing where you are, is to do an analysis or a valuation of your liabilities. The consultants were mandated to do that; to value the superannuation liabilities associated with the existing arrangements and develop a modern contributory pension plan for officers in the public service, the Judicial and Legal Service, the statutory authorities, the municipal corporations, members of the defence force, the higher Judiciary, members of the Industrial Court, members of the diplomatic service and parliamentarians.

The inception report was done on May 31, 2007 and has been received and discussed. The report addressed, among other things: the current state; the review of the key issues; the undertakings to identify and to analyze the alternative pension plan designs. The draft report dated February 01 2008, on the actuarial and valuation of the existing pension arrangements for the public service employees of Trinidad and Tobago, were forwarded to the Ministry of Finance and have been received and discussed.

The report has addressed certain key matters. The key results of the valuation: Government's liabilities and the current service cost. I am in a position to report as follows. According to that report: the number of retired public servants is expected to increase significantly over the next 20 years. That is in accordance, as well, with the actuarial report of the NIS, which was presented to this House, which noted a number of demographic variables. The demographic variables noted in that report are consistent with the demographic variables which have been identified by Mercer in its report on the Government Civil Service and Pension Plans.

Current pension plans do not provide for automatic increases for retiree pensions. If the Government does not increase retiree pensions in the future, the aggregate pension payments made to retired public servants are not expected to increase significantly in real terms due to the erosion in the value of pensions paid to retirees. However, if the Government increases pensions for retirees in line with inflation, the aggregate pension payments made to retired public servants, are projected to increase in real terms by about 55 per cent over the next 20 years or to double in real terms over the next 50 years. The Government's liabilities in respect of pension benefits accrued up to January 01, 2007, is approximately \$20.8 billion and the ongoing cost to providing benefits is approximately 14.6 per cent of current payrolls.

These amounts do not reflect the cost of any future increases of or for retired persons. If the Government indexes retiree pensions in the future, the liability and ongoing cost will be substantially higher. For example, if the Government fully indexes retiree pensions to inflation in the future, the cost of these increases is recognized immediately. The liability at January 01, 2007 would have been approximately \$30 billion and the ongoing cost of providing benefits would be about 21 per cent of what the total payroll is. The total payroll at the current time accounts for approximately 18 per cent of the annual budget.

The projected benefits, liabilities and ongoing costs are sensitive to certain key assumptions, particularly the discount rate, rate of inflation, salary increases and the retirement age. Liabilities and ongoing costs are particularly dependent on the level of real interest rates. We note that real interest rates in Tobago are significantly higher than the US, despite the fact that the TT dollar is closely pegged to the US dollar. If real interest rates were to decline to US levels, the liabilities and ongoing costs of the current plans would increase significantly.

About 94 per cent of the ongoing aggregate costs of the plans are borne by Government. In the contributory plans, members contribute less than 10 per cent

of the total cost, except for the defence force plan where members contribute 20 per cent of the total cost. The current pension plans are financed by the Government on a pay-as-you-go basis from general revenues. We have analyzed alternative approaches, including moving towards a fully funded approach and employing a reserve fund approach. A full funding approach would be an appropriate financing mechanism once it is in place. However, transitioning from the current approach to a full funding approach will result in the current generation of taxpayers bearing a significantly higher cost than future generations. A reserve fund approach may be more useful to stabilize cost at a certain level. The need for a reserve fund approach may be more important if the Government expects to provide inflation protection to the retirees in the future, since approaches could be used in conjunction with an opportunistic funding approach, whereby the Government could choose to set aside funds, when available, to offset future costs.

Employing these alternative financing approaches will have substantial cost in the future. There are alternative financing approaches which will raise significant issues that need to be carefully considered. There are 23 pieces of legislation that will need to be amended. It should be noted that Government's total pension liability as at January 01, just to summarize, is \$20.8 billion or approximately 516 per cent of the total pensionable earnings of active members in those plans in 2007; approximately 62 per cent of Government's liabilities in respect of active members, with the remaining 38 per cent in respect of former public servants.

The new minimum pensions implemented through Acts 17 and 30 of 2007, increased the Government liability by approximately \$672 million or 3.3 per cent. Most of this cost relates to increasing pensions for former public servants, widows and orphans. A small proportion of the cost relates to current public servants, primarily those expected to leave with short service.

With respect to the details as to when we would expect Chap. 23:52 to be amended, I make the following points: Following negotiations with the Public Services Association, agreement was reached to amend the relevant sections of the Pensions Act Regulations, Chap. 23:52 to treat with the provisions of the superannuation benefits to members of the public service who, at the date of their compulsory retirement, were acting in a position higher than their substantive office. Specifically, the amendments are to provide the following:

- (a) Where an officer has acted continuously in a higher office for a period of at least three years immediately prior to the date of his compulsory

retirement, his superannuation benefits shall be calculated as if he had been appointed substantively to that office during the period; and

- (b) where an officer has acted continuously in a higher office for a period of at least one year immediately prior to his compulsory retirement, the averaging principle shall be observed in the computation of his superannuation benefits.

It was agreed that the amendments of the Pension Act in the Regulations 23:52, will take effect from January 01, 2004 and the Government is committed to meeting that agreement. It has actually presented in this House at least one Bill on May 10, 2008, which has started to do that.

As I indicated earlier, similar agreements had been reached with other associations representing public officers in the teaching, police service and prison services. No agreement exists with the association representing fire officers. Except for certain teachers, officers of the teaching, police service and prisons, they are not covered by the Pensions Act, Chap. 23:52 which has been referred to. They are covered by separate Pensions Acts. An amendment to the prison service pension and gratuity rules was enacted as part of Finance Act, No. 2 of 2007. Through that amendment, a first division officer who at that date of compulsory retirement has acted in a higher period for less than three years is eligible for superannuation benefits, calculated as if he had been substantively appointed to his higher position. Draft bills are being prepared to enact similar provisions for the second division officers of the prison service and a draft bill has been presented and is in this House for consideration in respect of teachers.

The Government will meet its obligations; the Government is continuing to review the process and we expect—in fact, we have proposals in our hand for a draft contributory pension plan and the hard work will now begin in term of consultation, in terms of refining those provisions and in terms of deciding the best way forward.

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

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 6.26 p.m.

WRITTEN ANSWER TO QUESTION

The following question was asked by Sen. Wade Mark:

**Volvo Engineers
(Report of Accident)**

48. Could the Minister of Works and Transport provide the Senate with a copy of the report from the Volvo engineers in respect of the accident involving the articulated bus owned by the Public Transport Service Corporation?

The following reply was circulated to Members of the Senate:

The Minister of Works and Transport: On December 11, 2007, there was an accident on the Solomon Hochoy Highway involving an articulated bus manufactured by Volvo and a private motor vehicle, in which the two carriages of the bus separated.

Following this accident, the Ministry of Works and Transport wrote the PTSC on December 31, 2007, requesting a detailed investigation into the cause of the accident and the separation of the carriages. The incident was investigated by Volvo do Brasil and by a local firm of Engineers, In-Corr-Tech-Limited.

Volvo do Brasil concluded that there were no quality problems associated with the bus and that the cause of the rear carriage separation was the bus driver's behaviour while trying to avoid a collision with a private motor vehicle that entered onto the Highway from a secondary road, without regard for the right of way. Volvo do Brasil concluded that the bus driver swerved to avoid the crash, and due to kinetic energy the bus twisted from left to right and jackknifed several times, thereby causing the separation of the carriages. Volvo do Brasil also stated that it had analysed all of the affected components of the bus, utilizing fractography, hardness and tensile testing and that the components fulfilled all of Volvo's technical specifications. At the request of the PTSC, Volvo do Brasil also checked all 34 articulated buses in the PTSC fleet and did not find any defects in the quality of the components used to manufacture these buses. However, the company recommended that the buses be driven at a speed not exceeding 60 km/hour for reasons of safety.

On the other hand, In-Corr-Tech-Limited reported that the two carriages of the bus separated because of fracture of the connector and its associated shaft, in the turntable connecting the front and rear sections of the bus. In-Corr-Tech-Limited concluded that the root cause of the fracture of the connector was its poor casting quality and reported that microstructural analysis of the ductile cast iron

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connector confirmed casting defects in the form of large aligned graphite nodules which compromised fatigue resistance. In-Corr-Tech-Limited also reported defects in the welding of shaft.

Accordingly, since the two reports are contradictory, the Ministry of Works and Transport has engaged an independent metallurgical expert to give a third opinion on the adequacy of the metal components in the turntables, connectors and shafts for the 34 articulated buses in the PTSC fleet. Consequently, the Volvo report cannot be tabled at this time.