

## SENATE

Wednesday, July 30, 2008

The Senate met at 10.00 a.m.

## PRAYERS

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

## ORAL ANSWERS TO QUESTIONS

**Official Residence  
(Details of Payments)**

**26. Sen. Wade Mark** asked the hon. Minister of Finance:

- A. Could the Minister provide the Senate with the details of the final cost of the construction of the Prime Minister's residence and Diplomatic Centre?
- B. Could the Minister also provide the Senate with the details of payments of value added tax, income and corporation taxes, and all other corporate taxes by the Shanghai Construction Corporation of China during the period of construction of the said Prime Minister's residence and Diplomatic Centre?

**The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne):** Mr. Vice-President, I had indicated yesterday that we are awaiting approval. The question is in its final form and I have to say at this stage in the game, we have not been given approval; I am awaiting a telephone call. So, if it is possible later on in the proceedings I shall confirm whether we have the approval or not and will answer at that time or alternatively, tell you when we will be able to so do.

*Question, by leave, deferred.*

**Sen. Mark:** May I record my protest as it relates to the consistent disrespect and contempt demonstrated to this Chair and to this entire Senate by the Government, through the Minister in the Ministry of Finance. It is almost five and a half months or thereabout that these questions have been on the Order Paper. All we are getting from this hon. Minister is a series of false promises.

I would like to record our disgust, dissatisfaction, absolute disappointment over this Minister's continued attempt to mislead this Senate by making false promises that he knows he is not going to keep. I just want to serve notice; we intend to move a motion of privilege at the appropriate time to take this entire regime as they have done in the other place, to the Committee of Privileges, because I cannot continue with this insult, this arrogance and disrespect coming from this Minister who comes here repeatedly and falsely—you and me to a reality that does not exist.

**Mr. Vice-President:** Okay, Sen. Mark, your concern is noted.

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. Vice-President, first of all, Sen. Mark is guilty of imputing improper motives against the Minister. When the Minister comes here and makes a statement, he does so on the basis of the public service giving him that information. [*Interruption*] Hold on. Sen. Mark believes not what he says; he used to be in government, and because he was in government, he is aware of the process. If we come to this Parliament and we provide an untruth, the consequences are severe and in all instances, what we seek to do is to bring to the Parliament something that is correct and we will do so on an ongoing basis.

Further, Mr. Vice-President, what Sen. Mark refuses to say to you is that if you were to check the records, you would find that this administration has had to answer three times the normal set of questions that will come to the Government, and we have no difficulty with that. The fact of the matter is that we will do it correctly and we are advised by the public service. As far as that is concerned, maybe the only issue that we are guilty of is trying to meet a requirement based on our expectations, and maybe we need to review that. [*Desk thumping*]

**Trinidad Hilton  
(Presidential Suites)**

**88. Sen. Mohammed Faisal Rahman** asked the hon. Minister of Planning, Housing and the Environment:

- a. Would the Minister inform this Senate of the status of the Presidential suites proposed for the Trinidad Hilton?
- b. If the suites would no longer be constructed, could the Minister inform this Senate of any alternative arrangements being made for Heads of Government and other dignitaries?

- c. If alternative arrangements are being made, would the Minister state whether it is the Government's intention to bring these plans to Parliament prior to their execution?

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. Vice-President, the Minister is not here but I am aware that the answer for that question, as well as question No. 89 is not now available.

**Sen. Mark:** Mr. Vice-President, may I draw your attention on the appendix, Sir?

*Question, by leave, deferred.*

**Mr. Vice-President:** Question No. 90.

**Centre for the Performing Arts  
(Status of Proposed Hotel)**

**89. Sen. Mohammed Faisal Rahman** asked to the hon. Minister of Planning, Housing and the Environment:

Would the Minister inform this Senate:

- a. of the present status of the proposed hotel at the Centre for the Performing Arts?
- b. the expected date of completion?
- c. when will Parliament be informed of building details?

**Mr. Vice-President:** He gave you the reply. Question No. 90.

**Sen. Rahman:** I have not asked the question as yet; I do not know how he could have replied, Sir. I think the normal course is that he is required to answer the question in the way—[*Crosstalk*]

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. Vice-President, the Minister who has responsibility for this matter is now not present. However, I am in a position to tell you that the answer to this question is not now available.

**Sen. Rahman:** Much obliged, Sir.

*Question, by leave, deferred.*

**Mr. Vice-President:** Question No. 90.

**Richplain, Diego Martin**  
(Conclusion Date of Exercise)

**90. Sen. Mohammed Faisal Rahman** asked to the hon. Minister of National Security:

Would the Minister inform this Senate:

- (i) of the expected conclusion date of the joint exercise by Army and Police in Richplain, Diego Martin;
- (ii) whether the Ministry of National Security plans to establish a police post in the area?

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. Vice-President, the hon. Minister of National Security is here but the answer to this question is not now available.

*Question, by leave, deferred.*

**Sen. Mark:** Mr. Vice-President, may I now address you?

**Mr. Vice-President:** On what matter?

**Sen. Mark:** A question on the appendix.

**Mr. Vice-President:** The questions?

**Sen. Mark:** No, on the appendix. Go to the appendix, Sir. I just wanted to bring to your attention these questions that are outstanding and I want you to pronounce—which you have the authority to do, Sir.

**Mr. Vice-President:** Bring what to my attention?

**Sen. Mark:** Mr. Vice-President, I just wanted to bring to your attention the fact that if you look at these questions that are there in the appendix, you will see that they were due since February and we are now in the month of July going into August. I would like to advise the Leader of Government Business to take the necessary steps to engage his colleagues to really bring those written answers that are outstanding since the month of February, Sir. You are following what I am saying, Sir.

**Mr. Vice-President:** Sen. Mark, as far as I am seeing there is only question No. 26 that has been outstanding since February. You make it sound like there are a number of questions that have been outstanding.

**Sen. Mark:** There are several questions, Sir. You are not seeing? [*Crosstalk*] [*Interruption*] No, no, no. I withdraw.

**Mr. Vice-President:** Let us move on. [*Interruption*] Sen. Mark, I am on my feet and I expect silence when I am on my feet. Okay? The Minister of Education.

**WRITTEN ANSWER TO QUESTION**

**HDC Housing Units  
(Olera Heights, San Fernando)**

**83. Sen. Wade Mark** asked the hon. Minister of Planning, Housing and the Environment:

- (a) With respect to the Housing Development Corporation's (HDC) housing units located at Olera Heights, Circular Road, San Fernando, could the Minister provide the Senate with a list of the names and addresses of all the successful applicants drawn by random computer selection;
- (b) the dates on which each successful application was made; and
- (c) the names of the successful applicants who received keys at a public ceremony in May, 2007?

*Vide end of sitting for written answer.*

**PENSIONS (AMDT.) (NO. 2) BILL**

*Order for second reading read.*

**The Minister of Education (Hon. Esther Le Gendre):** Mr. Vice-President I beg to move,

That a Bill to amend the Pensions Act, Chap. 23:52, be now read a second time.

Mr. Vice-President, I thank you for inviting me to this honourable Senate to present to you today a Bill to amend the Pensions Act, Chap. 23:52, which seeks to provide an important benefit for the holders of certain technical officers in the teaching service.

Mr. Vice-President and hon. Senators, these offices were delinked from the public service and transferred by Act No. 22 of 2005, the Education Act, Chap. 39:01, which was assented to on August 10, 2005. The Bill we have before us today has its roots back in 1999 and the only reason we go back to that year is really to provide a historical perspective to this Senate as to why we are putting forward this particular Bill today.

In 1999, a Government-appointed committee reported on issues which related to the unification of the teaching service into an education service and to delink that service from the wider public service. The intent of that committee was to unify the teaching service with all other aspects of education, that is teaching, administration, technical, all parties involved in the business of education.

The other purpose of that committee was to create the legislative framework, which would support that delinking. The Cabinet of the day then agreed firstly, to the unification of the education sector; that is again: teaching, administration, management, curriculum and supervision. They also agreed to the partial delinking of the teaching and education service from the public service. They also agreed to undertake the partial delinking on a phased basis, through, among other things, a separate compensation plan.

Sadly, no action was taken on the recommendations of this particular committee. In the first place, no legislation for achieving unification, which the committee recommended, was created. The only action taken was to delink the teachers' compensation plan from a civil service classification and that created a number of problems, which we are still trying to solve today.

The teaching and education service was not legally unified. Issues of compensation for the teaching and education service were not addressed. Teachers and principals belonging to TTUTA began to receive higher wages as a result of the negotiations undertaken between TTUTA and the CPO. They, of course, received considerably higher wages and consequently, their supervisors and other superiors, who were still attached to the civil service were then receiving less than those persons who were in the teaching service.

There were 39 offices affected and 239 office holders in these 39 positions. There were other problems obviously. There became a difficulty—

**10.15 a.m.**

**Sen. Mark:** Mr. Vice-President.

**Hon. E. Le Gendre:** Sorry. Mr. Vice-President. I thank you so much. Other problems arose that there was a difficulty then in recruiting persons to the supervisory levels because people in the teaching service were receiving more than they. And this is a peculiar problem, because as you are aware, a number of the skills and competencies developed within the teaching service through the level of teachers, principals, et cetera, really formed the base of the competencies and skills required at the supervisory levels higher up. So that there was a significant problem created in this lack of unification which would have addressed the issues of compensation.

So, to correct this anomaly a decision was taken to pay interim allowances, an interim payment which bridged the gap between what the teachers and the principals were earning and what the supervisors needed to be paid in order to maintain that differential which accounts for a different level of work pursued by the higher levels. These allowances for some reason known only to the officials at that time were paid only to supervisors I, II and III, the Director of School Supervision and the CEO, and for the life of me I cannot find out why the other 34 offices were not addressed.

This was the state of play as at the year 2001. In 2002, just three months after coming into office, the Government of the day took steps to provide all 34 other offices and their office holders who were left out of the previous correction with the allowances which would have maintained their differential. I should say consultations on many issues arising from the lack of delinking were also undertaken by the Government of the day. In 2003, the Cabinet also approved the transfer of all 39 offices from the public service and directed that legislation be prepared to correct the lapse of the earlier years, so, in the year 2005 as I said earlier, Act No. 22, the Education (Amdt.) Act to unify the teaching and education services established benefits and created a better organization.

At this time work is proceeding with the Chief Personnel Officer to ensure that all members of the unified service are within one classification and one compensation plan. It makes sense. It is good sense to have a single unified body that deals with all players in the education sector. At this time, job evaluations for positions above principals are being addressed and salary rates are to be negotiated within the particular grade structures. Plans are also in progress but the issue of interim allowances require further revisions as a result of the new compensation plans which have come into effect now for the years 2005/2008. I am seeing a few wrinkled brows on the other side. What is happening is that there is a need to play catch up. The union negotiates new wages for the principals and the supervisors and other persons are thrown out of whack. So it is necessary every time there is an increase in wages at the lower levels, one has to compensate by adding allowances at the upper levels, and the way we do it is through these amendments to the legislation because there is no overarching legislation which keeps the service in one place so that it can be dealt with equitably and in time.

So, Mr. Vice-President, that plan was ratified by Cabinet in September 2007 and it took effect in December 2007, and arrears began to be paid in 2008. The calculation of the interim allowances for other office holders was completed. It is in the context of organizational transformation and progress that I present to this

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honourable Senate this Bill to amend the Pensions Act, Chap. 23:52. The objective of the proposed amendment is to ensure that the interim allowance paid to the holders of offices listed in the Third Schedule attached to this Bill and as detailed in the Fourth Schedule will be taken into account in determining emoluments of the holders of the said offices for pension purposes with effect from the date of the payment of such allowances.

Mr. Vice-President, if you allow me to break it down, no disrespect intended, when the superior officers were paid an allowance in the past, that allowance was not added to salary in a way that would give the office holder an increase in their pension entitlement when they retire. And that is the simple intent of this Bill. I am a little apprehensive that there might be attempts later in the day to drag all manner of red herrings across the path of what is a simple intent to give people what they are entitled to. *[Interruption]* It is a simple intent. We add allowances. We are now moving to have those allowances considered for the purposes of payment of pensions. *[Interruption]* It is just and it is right. What this means, is that any such office holder who might already be retired—

**Sen. Mark:** *[Inaudible]*

**Hon. E. Le Gendre:** What, somebody planning to wade into me already? *[Laughter]*—and whose superannuation benefits were calculated without considering the interim allowances would have these benefits recalculated.

This is a very important move. You cannot imagine the number of calls and letters that I have received from people out there. Sometimes when we are in this Senate and we are debating, we are forgetting that the object of our debate, the object of all of this process of creating legislation, et cetera, is about people, and today it is about 14,000 people sitting out there watching Channel 11 and saying, Minister get on with it, we know what you are about; we support you; this is important to our benefits; *[Desk thumping]* we understand what it is about, please tell your colleagues get on with the business of ensuring that we are not disadvantaged at the end of the day with our pension payments.

Mr. Vice-President, again, it is about ensuring that the allowances—these 39 offices—which they would have received over the years, that now that they are in the years that they should be enjoying the fruits of their labour and their well-earned pensions, we want to ensure today that these allowances are considered next to the salaries for pension purposes and we want to ensure secondly that these allowances are considered, not just from today, not from the date of the passing of the Bill, but from the time at which they began to be earned, and that these payments are also retroactive.



So as I said, any office holder who is already retired, and I had a couple of nervous letters, I have already retired, this Bill is coming into place now, what will happen to me? Mr. Vice-President, through you, I would like to speak directly to those retirees out there, your pension is safe. Your pensions will be calculated with consideration of your interim allowances and this would be done retroactively from the date at which those allowances were due to you. Please permit me the opportunity to detail the provision of the Bill before this Senate, entitled an Act to amend the Pensions Act, Chap 23:52.

Mr. President and Members of this honourable Senate, clause 1 defines the title of this amendment, which is the Pensions (Amdt.) Act, 2008; clause 2 indicates the substantive legislation being amended, which is the Pensions Act, Chap. 23:52; clause 3 outlines the amendment being made by way of an insertion of a new clause after the existing clause 34 to state:

“Notwithstanding the provisions of this Act, the Interim Allowance paid on or after January 1, 2000 to the holders of the offices listed in the Fourth Schedule of this Act shall be taken into account in determining the pensionable emoluments of the holders of these offices.”—for pension purposes.

Clause 4 seeks to insert a Fourth Schedule into the Pensions Act, and this schedule lists all of the offices whose office holders are in receipt of an interim allowance that we described earlier.

In conclusion and in summary, this amendment is an important one for a large number of office holders in the teaching and education service. The amendment when approved will bring relief and allow for equitable treatment in the computation of all important retirement benefits. I hope that I have laid the case for the amendment and I wish to commend the Bill at this time to this honourable Senate for its consideration and approval.

I thank you.

*Question proposed.*

**Sen. Wade Mark:** Thank you very much. Mr. Vice-President. May I first of all take this opportunity to welcome the hon. Minister of Education, the Hon. Esther Le Gendre—

**Hon. Le Gendre:** Thank you very much.

**Sen. W. Mark:**—to this honourable Chamber. In addressing this particular Bill that is before us, I would like to, from the outset, advise the hon. Minister of Education that the Senate regulates its own business and its own affairs. It takes no orders from a Minister of Education or any other Member from the other place.

**10.30 a.m.**

If the Bill is a simple Bill, we would address it accordingly. There is no need for you to introduce red herrings, as you have into this debate, but it appears there is an attitude that permeates the spirit of the entire new bench and this is apparent from the Minister's opening remarks. I do know why the hon. Minister is so defensive on a very simple matter. You are very defensive this morning. You brought a Bill, we intend to debate it and we intend wherever there are weaknesses to point out those weaknesses, so we can strengthen the legislation.

Mr. Vice-President, the amendment that is before us today shows the need for pension reform in the Republic of Trinidad and Tobago without a doubt.

**Sen. Dr. Saith:** [*Inaudible*]

**Sen. W. Mark:** Of course. The Pensions Act that is referred to in the Bill is the Pensions Act, Chap. 23:52 and this Act was, in fact, enacted sometime in 1934.

[MR. PRESIDENT *in the Chair*]

So it is almost 74 to 75 years old and as the Minister indicated in the Bill, clause 3 is amended by inserting after section 34, the following section:

"Notwithstanding the provisions of this Act, the Interim Allowance paid on or after January 1, 2000 to the holders of the offices listed in the Fourth Schedule to this Act shall be taken into account in determining the pensionable emoluments of the holders of these officers."

Mr. President, if you were to go to section 34 of the Act, you would realize how archaic pension laws are in this country. I invite you to look at section 34 of the said Pensions Act of 1934 that speaks to the issue of the Government of Palestine and that was when the British were in charge of Palestine on May 14, 1948. That is the age of this legislation that we have before us and the purpose is outlined. It is to provide benefits for the holders of certain professional, administrative and technical offices as you have outlined and these persons were previously engaged in the public service of Trinidad and Tobago. The amendment is an attempt to get those persons to enjoy whatever interim allowances they were granted in the past few years; have those allowances incorporated into their emoluments, so that at the end of the period of service of these professionals, it would be incorporated for purposes of their pensions upon their retirement. So, it is clear that this is a benefit. I wanted to ask the hon. Minister whether it might not have been administratively easier to consolidate these interim allowances into the salaries of

these professionals that you have outlined in the Fourth Schedule; whether it would not have been an easier route to take to have these allowances consolidated into their salary, rather than doing it in the way that we are doing it, but it is a thought that I just put out for your consideration.

The Minister outlined that there is a rationale for this development. It had to do with the delinking from the public service of the teaching service and the transferring to the teaching service of these professionals, administrative officers and technical personnel—and that was manifested in various Acts of Parliament. Now, as the hon. Minister said, this matter dates back to 1999, why it took so long to address a very simple administrative matter? I am sure that if the hon. Minister is honest—and I have no reason to doubt that she is not—she would tell this honourable Senate how many teachers or how many persons in the category outlined, have since gone on retirement? How many of them? For instance, is it 20; is it 15; is it 30? But I am sure, hon. Minister, that several of these officeholders have proceeded on retirement. So, while you are saying that their pensions are safe, I hear you, but there are many of them who would have been going through trials and tribulations as a result of this lacuna in their pay package over the last few years. We all know the kind of brutality that workers are experiencing as a result of the spiralling cost of living, and that has come about because of the Government's continued irresponsible and reckless injection of huge financial surpluses into a contracted and otherwise overexpanded economy.

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

**Sen. W. Mark:** Well, for you it is not, but for the ordinary person who has retired, it means much, because inflation is now 11.3 per cent and it is predicted it will go to 13—15 per cent at the rate that this Government is spending money.

Mr. President, once inflation increases, it erodes the purchasing power of the people, of the ordinary people in particular, not those who are getting \$60,000, \$70,000 and \$90,000 a month; they can survive, but what about the teachers, the ordinary teacher, the professional who is going home with \$5,000 a month in pension and he has to meet all his utility bills and his mortgage commitments. These are the people that we are concerned about. So, that is why it is a responsibility on the part of the Government to ensure that inflation returns to the level, when the UNC was in charge, of 3.9 per cent over a six-year period. That is where inflation was; today inflation is 11.3 per cent and rising. I want to let the Government take a page out of the book of the UNC as it relates to the management of this economy of Trinidad and Tobago. You do not know how to

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manage. We were able to manage this economy and we want you to take a page out of that book. You see how I know that you are not sleeping, I have you awakened. [*Laughter*] Great! Great!

Mr. President, I would like to ask the hon. Minister if he could explain to this honourable Senate why it took so long to address a small administrative matter. These professionals that we are talking about, experienced these interim allowances as a reward to ensure that there was equity in the system. Equity was required because with the delinking process, which was initiated under the United National Congress administration, and which was part of a wider strategy to delink the teaching service from the public service so that the teachers of our country could be rewarded, could be paid properly and they would be duly recognized for their great services they have rendered to this nation. These teachers were almost like vagrants when the PNM was in power. They got measly salaries; their allowances were very poor and it was the UNC administration, committed to a revolution in education, that placed emphasis on proper remuneration for the teaching profession in this country. [*Desk thumping*] That is what we did and as a result of this, teachers were given the highest pay increase ever experienced in this country when the UNC was in office.

Seventeen years they had not gotten an increase—not an interim, I am talking about real increases. If I may, Mr. President, the interim dealt with an anomaly in the system and that is why this amendment is before us. It does not take away from the job evaluation exercise that was done specifically to delink the teaching service from the public service, that resulted in these teachers getting fabulous increases that they had never experienced for 17 years as a result of the UNC. That is in the public records of Trinidad and Tobago. You can run, but as Valley says, you cannot hide from that fact. That is a fact. Mr. President, I was there; I was the Minister of Public Administration—[*Interruption*]

**Sen. Gronlund-Nunez:** Mr. President, on a point of clarification.

**Sen. W. Mark:** Oh, you want a point of—no, you must ask my permission. No, no, I am standing. If you want a—[*Interruption*]

**Sen. Gronlund-Nunez:** On a point of clarification, Mr. President.

**Sen. W. Mark:** No, you have to ask me.

**Sen. Gronlund-Nunez:** On a point of order, Mr. President.

**Sen. W. Mark:** Okay, point of order.

**Hon. Senator:** What is the point of order?

**Sen. Gronlund-Nunez:** For some clarification. [*Laughter*]

**Sen. W. Mark:** No, no, no. Mr. President, no, no, no, we cannot do that. Please, please, Sir.

**Mr. President:** Minister, with the greatest of respect, you cannot do that. If the Senator is unwilling to yield, he is unwilling to yield, he has the floor. If you have a point of order, you could raise it; if you do not, well I think you would have to keep your seat.

**Sen. W. Mark:** Mr. President, in the spirit of emancipation, [*Laughter*] I bow to my colleague's request.

**Sen. Gronlund-Nunez:** Mr. President, through you, I was just trying to find out if these so-called teachers that the hon. Senator was referring to, were the same teachers that his leader at the time was touting as criminals. All up and down the newspapers; the same ones that he is saying that they worked so hard for—[*Interruption*]

**Sen. W. Mark:** I rise again, Sir. I withdraw. You will never get me again in life to stand for you, so I would not even respond to that. Mr. President, may I continue. I know it is hurting them. I want to put on the record that the teaching service of this country and the 15,000 teachers or thereabout, never, ever experienced the kind of increases in salaries, and other conditions and terms of employment as they did under the UNC in this country. [*Desk thumping*] I want the hon. Minister to deal with that. That is a reality.

I want to remind this Senate—just as how my good friend rose and talked about our former Prime Minister calling teachers criminals—I want to remind this hon. Minister that it was the first time in the history of this country that police officers were used to deliver letters to teachers in this country. You used the jackboots of the police service to terrorize teachers in this country. You! You!

Do not get up and talk about matters you are not familiar with. [*Crosstalk*]

**10.45 a.m.**

This was a revolution in education for teachers in this country. They were able, for the first time, to feel like men and women actually contributing to the development of this country. [*Interruption*] Do not worry about me; I am very relevant in what I am saying. [*Crosstalk*] We are talking about emoluments here; the issue of interim allowances, which is what this Bill is about, seeking to have them be a part of the final emolument of these professionals, so they could go home with a reasonable pension at the end of their period of service. That is what is at issue in this debate.

We cannot, in good conscience, disagree with it. We believe that teachers are entitled to proper pensions; and we go further; we believe that the time has come to link pensions to the cost of living; we believe the time has come to index pension to inflation so that the erosion of the value of your purchasing power would not continue uninterrupted as it has been. We would like the Minister to tell us what steps are being taken to bring about an indexation of pension, so that ordinary people, when they serve in this nation, could go home and rest assured that their limited income would not be eroded by spiralling inflation. I want you to take account of that.

I ask this Government, which is always approaching matters on a piecemeal basis, when we need to approach things holistically and in a comprehensive way: Why have you left out other professionals? Maybe you might tell me temporarily, for the time being. When I was the Minister of Public Administration, we extended interim allowances to several categories of professionals. In the Director of Public Prosecutions (DPP) Department we gave, through the Chief Personnel Officer (CPO), interim allowances to the professionals there. The nurses and the doctors, hon. Jerry Narace—I think you said that you are Ramnarine; okay, Ramnarine Narace. [*Laughter*]

The government of the UNC also extended interim allowances to nurses and doctors, whom this Minister is now trying to imprison, through a reactionary, backward and oppressive set of regulations, which we shall deal with very shortly. We granted interim allowances to these persons.

I call on the Government to tell this Parliament what steps are being taken by this administration to incorporate these allowances into the final emoluments of these categories of workers; I am talking about legal officers; I am talking about nurses, and I am talking about doctors. They are citizens of this country, Sen. Laurel Lezama; I believe that if we are giving to the professionals in the teaching service, it ought to be equitably distributed across the board. I ask the hon. Minister: When can these doctors, nurses and legal officers expect to get their emoluments, their interim allowances, consolidated into their emoluments for pension purposes? It is a fact that it is so, that they did, in fact, receive these moneys.

The pension matter that is before us cannot only be seen merely in the context of the teaching profession. Even if we were to confine it to the teaching profession, there are thousands of teachers who have now retired. It is alarming that in this period of plenty you find teachers who are retired from the service experiencing difficulties merely to survive. They cannot make two ends meet.

I want to share with you a statement made by Mr. Ewart Williams, Governor of the Central Bank of Trinidad and Tobago, at the launch of the National Financial Literacy Programme in Port of Spain on January 22, 2008. This is what he had to say about retirees, including teachers; this is in the report on page 12:

"One in three (33%) persons over the age of 60 continue to work because they need additional income."

Imagine after you work for 30 and 40 years of your life, you have to continue working just to make two ends meet, because you do not have sufficient income in order to live.

"54% of retirees"—according to the Governor of the Central Bank—"do not have an occupational or personal pension."

Is that not a sad development, that over 54 per cent of our retirees do not have an occupational or personal pension plan? How are they surviving? Only 13 per cent ever considered taking out a personal pension plan, according to the survey.

It goes on:

"The main reason for not doing so was lack of money."

They just could not afford to purchase a personal pension plan, an occupational pension plan, or be part of that. The article goes on:

"Almost half of the retirees (45%) report that their current (household) income was insufficient to give them the standard of living they hoped to have in their retirement."

In other words, the retirees' income was insufficient to give them the standard of living they hoped to have in their retirement.

So when we talk about pensions and pension reform, in this context we are talking about teachers, we have to think and take into account the plight of these teachers and the plight of these retirees. The Government must pay attention to this matter.

Mr. President, it goes on:

"A substantial percentage of respondents (69%) are relying on government pensions (NIS/Old...)"—which is now called senior citizens grant—"for their retirement income."

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That is the state of play when we deal with pensions in this country. Albeit we are focusing on the teaching profession today, we have to look at the whole question of retirement in a wider context in our country. Here we have evidence coming from a survey that was conducted by the National Financial Literacy Programme; the Governor of the Central Bank indicated the plight of retirees in this country.

I would like to know what steps are being taken by the Government to address the plight of these retirees, these teachers who have retired from the service and are not able to make ends meet, because their income is insufficient to make ends meet. What steps are we taking to bring some kind of relief to these retirees in Trinidad and Tobago? What steps? I imagine that the hon. Minister would provide us with some information on this matter.

I refer you to an article in the *Trinidad Express*, dated January 29, 2008:

"Too many retirees in financial hell...Broken and old"

"Rough time for retirees...survey reveals most households without car, life insurance"

Mr. President, when we talk about pensions we have to do so in the context of how persons are surviving in this country. Persons are not surviving; they are under a lot of pressure. We understand that judges who have retired from the courts of this country are under severe pressure in this country. What kind of assistance are we providing to our retired judges who cannot make ends meet?

If we had a universal, comprehensive, national pension plan that is indexed to the cost of living and inflation, not a single citizen would go unnoticed; not a single citizen who retires would experience the hardships and challenges that so many are experiencing today. Do you know that there are over 23 pieces of legislation in this country dealing with pensions, and that this Government has not taken any steps to consolidate into an omnibus piece of legislation a proper Pensions Act? Why has the Government not done this?

Then we have the hon. Minister coming today to represent again what I call a piecemeal approach to a problem that requires a holistic and comprehensive approach. When we talk, as the Governor did, about retirees being broken, and over 50 per cent not making ends meet, that applies also to persons who are on the senior citizens grant. They are living like vagrants in this country. I do not understand a government that says it cares about the people—as we would hear from Sen. Lezama, Sen. Melville, the hon. Minister Le Gendre, and the Minister of Local Government, Sen. The Hon. Manning that they care—but where is the care? Where is the loving? Where is the love for the elderly? [*Crosstalk*]



Can a person survive in this country on \$2,500 a month? Can any one of you on that side survive on \$2,500 a month? I dare any one of you to give up your lucrative perks and perquisites and survive on \$2,500 a month. Thousands of retirees are being called upon by this heartless, callous, brutal administration to survive on what, \$2,500 a month. I want to get answers today; I want to know what they are doing to help the teachers live a better life. These retirees who are outside there, what are we doing to help them? That is what I want to know.

Retirement is a nightmare for thousands of persons in this country. To retire is like courting death in the country, because you have no hope. Do not depend on the Government, heartless and brutal. They are not giving any support to the elderly. I do not understand how in a country where we have \$46 billion to \$48 billion, we are boasting that our gross domestic product (GDP) is over \$130 billion, and at this time we have so much poverty? How come we cannot have a universal pension? How come?

How come the Government has taken a decision to determine whether your mother or my mother or the mothers of this nation who have crossed 65 years, would get old age pension or the senior citizens grant on the basis of your household income? That is the new measuring rod. They are saying that if in a home of four persons, you have your mom and your dad and they are over 65 years, they are not automatically entitled to the senior citizens grant. It must be determined on the basis of household income.

### **11.00 a.m.**

If my three brothers and I are working, they are taking all these funds into account and they are saying that if it satisfies a certain threshold, we must take responsibility for taking care of our parents. What heartlessness is this? A citizen is entitled to his pension. He has worked; he has earned his pension. Why do you want to deny that citizen his pension? Do you know what is even more serious, Mr. President? This Government went in a scheme with the International Monetary Fund (IMF) and integrated old age pension with the National Insurance Scheme (NIS).

Do you know what the situation is now? It is \$2,000 a month from NIS. You will not believe that when you get the \$2,000 from the NIS when you retire, at the age of 65 you would automatically get \$1,650 which is your old age pension or Senior Citizens Grant. Do you know what is happening? It is only if you fall short that the Government will make up. When you get the \$2,000 from the NIS, the Government gives you \$500 more because it is a ceiling of \$30,000. It is

heartless and not fair to the ordinary people. I call on the Minister to tell us what the Government is doing to deal with this retirement of thousands of teachers to ensure that they get a proper pension at the end of their period.

One of the areas that we need to consult or focus on and the Minister will probably guide us, is the issue of ageing or ageism. That phenomenon is affecting our nation. The Minister in the Ministry of Finance owes us an explanation as to what they are going to do to deal with the question of ageing in this nation that will affect pension in a serious way.

Seven years ago, the National Union of Government and Federated Workers signed an agreement with the Government through the Chief Personnel Officer (CPO) to establish a pension plan. Seven years after, the daily-rated workers are still awaiting their pension plan to be effective. Why do you sign documents and you do not honour them? What is the reason? What is the explanation for not implementing and honouring this pension plan? Whether you are a teacher, you are under pressure; you are a daily-rated worker, you are under pressure; you are an old person or elderly citizen, you are under pressure. Pension needs to be reformed. The whole pension system needs fundamental and radical alteration so that people can get a decent and reasonable pension when they retire with the index to the cost of living.

The UNC's position on pension is that we shall reduce the age of retirement or access to pension from 65 years to 60 years. We went further to tell the country that there will be a universal pension for every citizen in this country. Once you work you must be entitled to your pension arrangement. Do you know what is sad about it?

Whilst the teachers who have retired are receiving insufficient pension which we understand is still taxed, they cannot live. Do you know while that is taking place what is going on? That very Minister of Education in her ministry is following in the footsteps of her predecessor and continues to engage in wasteful expenditure through advertisement. Over \$6 million was spent promoting the Ministry of Education and herself in 2007.

For the first three months of this year they have expended over \$3.1 million. That money could have gone towards the retirees and elderly of this country. Why are you spending money in this reckless manner on yourself? I saw something recently. Again it was wasteful expenditure whilst the retirees are experiencing trouble.

**Sen. Manning:** On a point of order. Standing Order No. 35(2) imputing improper motives. The funding that was spent was signed by that government when they went to the IDB to get funding and part of the reform that they signed was that the government must be up on public education. Whatever you saw in the newspapers was to ensure that the public knew what was happening in the reform movement in the education system. I am clarifying because you are imputing improper motives.

**Sen. W. Mark:** You cannot make a long speech. That is not a point of order. I must take you into my classroom and teach you the Standing Orders. I am going to establish a classroom for the newcomers in terms of how to use Standing Orders. It will be free. You can take me to your palace. [*Laughter*] You want me there bad, “eh”. You want me in the palace.

Let me continue. I am dealing with waste. Money that could be channelled towards the retirees in our country is being wasted. I saw something recently. Everyday in the newspaper, an illegally constituted body that is not incorporated into law in this republic calling themselves the Special Anti-Crime Unit of Trinidad and Tobago (SAUTT) is advertising. There are two and three advertisements. It is over \$1 million. That money could have gone towards the teachers who are retired.

**Sen. George:** Mr. President, on a point of order, the Senator is irrelevant.

**Mr. President:** Senator, you know where you should go.

**Sen. W. Mark:** This particular matter that we are dealing with demonstrates the importance of establishing a public service pension fund for the entire public service. Do you know that at this time the whole system is unfunded? We got information from the hon. Minister in the Ministry of Finance about a couple weeks ago, that the liability of the Government towards the system of pay as you go is over \$21 billion. I would like to know as we deal with the teachers, how are we dealing with the wider public service as we focus on the need for pension reform? When Mr. Brian Kuei Tung was the Minister of Finance in the UNC administration, he began to take steps to address this question. We were on the road to introducing a contributory pension scheme for the public service. We would have funded their portion.

The workers would have had to pay 10 per cent and the Government, 90 per cent. We were prepared to pay the workers’ 10 per cent over a period of years. It would have established a fund for pension and retirement. It would have allowed pension funds to be invested. If you invest pension funds you can get returns on

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those investments and at the end of your retirement or period of service to your country, you can leave with a more enhanced and upgraded pension. Not as today, any and every public officer can predict his pension upon retirement. That is unfair. I hope that the Government will move with some speed to get this system in place.

I do not know if you are aware and sometimes I wonder if this Government continues to go in circles. Every time a new administration comes in, it appears as though they have to start all over again. We are talking about a nationwide public service pension scheme which will focus in the first instance on the public service. We are talking about the public service which includes teachers and having them incorporated into a pension scheme for the public service of Trinidad and Tobago.

I draw your attention to a Green Paper that was produced in May 2003. It was a committee appointed by the Cabinet to review the financial sector of Trinidad and Tobago. May I inform you that in this document there was a section on pages 20 to 24 dealing with the pension system of Trinidad and Tobago. We went from a Green Paper to a White Paper which was submitted in June 2004. Do you know what was sad about it? There was an implementation schedule. I will read it for you because at that time—

**Mr. President:** The speaking time of the hon. Senator has expired.

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

*Question put and agreed to.*

**Sen. W. Mark:** I want to refer to a statement by the hon. Kenneth Valley when he was the Leader of Government Business. He tabled this report in 2004 when it was completed. He had a statement in the *Hansard* dated Wednesday, June 30, 2004. In this statement the hon. Ken Valley indicated the Pan American Financial Centre. It is embedded in this report and the White Paper as well. What was significant about it is the number of areas on which they focused in this matter. They focused not only on pension but also areas like insurance; the credit union; competition policy; a new taxation regime and the modernization of a legislative framework. It is on record that the Government was supposed to bring to Parliament within 12 months of June 30, 2004, the following legislation to modernize the entire legal framework governing the financial sector. They are:

- Financial Institutions Act;
- Securities and Industries Act;

- Insurance Act;
- Cooperative Societies Act;
- Mutual fund industry; and
- Pension fund industry.

All these were supposed to come by the end of 2005.

I want to read what the hon. Kenneth Valley said:

“Our implementation schedule projects a completion date of December 2006. To ensure achievement of this schedule we have established an implementation committee to manage the process.”

Since 2006, this regime was supposed to bring to the Parliament a Pensions Act that will incorporate the 23 pieces of legislation dealing with pensions in this country. We are now in 2008 and we hear from the hon. Minister in the Ministry of Finance that there is a new group in town called Mercer.

#### **11.15 a.m.**

This group is just about to submit a draft on pension reform for the public service, parliamentarians, and the wider society, when they were supposed to have brought a pension plan that would have incorporated the interest of teachers, since 2006. The Government does not appear to be serious.

I would also like, as we deal with pensions, to really ask—I looked at the *Central Bank of Trinidad and Tobago's Report on Insurance and Pensions* for the year ended December 31, 2006. There is a section dealing with 55 pension fund plans being wound up. Are workers not entitled to pensions? Is it not a legitimate expectation that if I join an organization or am employed by a particular organization, I would be entitled, at the end of my period of service, to some pension? Why is it that these companies are winding up their pension plans? What are they doing with their surpluses? Are they pocketing the surpluses or are they sharing the surpluses with the workers?

I saw some very interesting companies. No. 37 is Reinsurance Company of Trinidad and Tobago Limited Pension Fund Plan; is that not Trinre? Is that not a company that the Minister of Health has shares in, even though he has now put them in a blind trust? Why would a Minister want to wind up his pension plan? Is Trinre technically insolvent or is it solvent? If Trinre is technically insolvent, why is it operating today? On page 128 of this report, the Reinsurance Company of Trinidad and Tobago Limited Pension Fund Plan is being wound up. I do not know how many workers are going to be affected by this. Is Trinre technically insolvent? The Minister

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in the Ministry of Finance has to let us know. If it is that the company is bankrupt, why is the company allowed to do business? I see that they have opened a new branch in Chaguanas with somebody with a handshake; stretching to shake the population's hands to come in and buy. I am seeing some strange developments here.

The Employers' Consultative Association Pension Fund Plan, is the ECA bellying up? Are they going out of existence? Why is the ECA winding up their pension plan? Why are they doing so?

Guardian Life is owned by a "fella" called Arthur Lok Jack; he is the biggest shareholder there—you have come too late. I have it for you, Jerry. All right, he is not taking me on.

Number 23 on this document shows Guardian Life of the Caribbean Limited Pension Fund Plan. Why is Mr. Arthur Lok Jack winding up a pension plan for his workers and Guardian Life is in existence? Guardian Life is making money. Why is he winding up this pension plan? I would like some answers. There are 55 companies here that are winding up their pension plan.

Sometimes I wonder whether it is all part of a scheme to really disenfranchise workers of their rights. Is it a scheme, on the part of these employers, to put a burden now on the State, so that workers will no longer get their pension upon retirement? They would go and get an NIS pension and old age pension and make up the difference. This is a dangerous development. I think that this needs an investigation by the Ministry of Finance. I think that we need answers to this.

I am going to move a special Private Members' Motion to deal with this report because I cannot deal with it today. It is highly dangerous. There are more things to say on this company called Trinre, but I would deal with that under the insurance scheme, when the Insurance Act comes. That is a report by the Central Bank of Trinidad and Tobago, 2006 on insurance and pension plans in this country. Under this report, 55 companies have wound up their pension plans. Why have they done that? We do not know. How many workers are going to be affected, we do not know. Where are the surpluses going? We do not know. It is nowhere in this report; I looked. Tell me what page it is. Where is the money going? Do you want to borrow it? I cannot go across there so I would ask for it to be passed to him.

There is a huge corruption ring operating in the pensions industry in this country. We see leaders in this Parliament who are supposed to be setting examples. We see leaders in the country. One was in charge of Vision 2020. The police should investigate this one. We understand that a slot in Heathrow Airport

today is fetching close to £25 million. We sold eight slots or seven, for £5 million and we are told that it is the best price we could have gotten. Who was in charge of that airline? Mr. Arthur Lok Jack, the same man who is winding up a pension plan. The police need to investigate this man. I believe that the population of this country has been robbed, deceived and cheated by this Caribbean Airlines Chairman.

**Sen. Enill:** “It have Clico there too?”

**Sen. W. Mark:** Yes, I see it. Clico is here too. You should tell me, I do not know about Clico; Clico is Monteil. I think it is Monteil. Is Monteil going out? I do not know he is going out. I know he is no longer treasurer. I know Sen. The Hon. Mariano Browne is now the treasurer.

This is a very serious matter that we are dealing with this morning. While we would have a second bite at the cherry in the not too distant future, I would have many more things to say about pensions in this country. I am totally unhappy with how the Government is approaching pensions, as it relates to the public officers and in this instance the teachers who are retiring.

I have a report called the International Monetary Fund Report for Trinidad and Tobago Options for Pension Reform, dated April 2002, when Mr. Patrick Manning, then Prime Minister of this country secretly brought in these people from the International Monetary Fund to do a report.

I would like to read for you and I would like the hon. Minister in the Ministry of Finance, who certainly is required to intervene in this debate—On page 6 of this report hear, as it relates to public officers and the citizens of this country, what the IMF recommended to this Government. It appears to me, when I look at the Prime Minister’s and the Minister of Finance’s statements that they have adopted this report lock, stock and barrel from the International Monetary Fund.

Teachers who are retiring and who have retired are going to face the brutality of this regime. Do you know what the IMF recommended? A reduction in the generosity of the civil service pensions for new hires and a modification of retirement ages in line with those proposed for the NIS. NIS wants to go from 60 years to 65 years. In the public service today, you can retire at the age of 60. The International Monetary Fund has recommended, I am not saying they have implemented, but we are getting information that the Government wants to go the route of increasing the retirement age from 60 to 65.

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In addition, it talks about the share of pensions that can be commuted as gratuities that should be reduced as these pensions are meant to ensure income in old, not middle-age. In addition, the tax advantages of community pensions, both in the public and private sectors should be eliminated. I would like, in closing, to get from this Government what is their position on this report of the IMF. Is the Government implementing the International Monetary Fund's recommendations as were outlined in 2002? I want to get answers.

We cannot be against workers and particularly teachers who have retired, consolidating the interim allowances into their final salary for pension purposes. We support the effort to get this thing done. I am very sorry that it has come so late. I thought it would have come about four, five or six years ago, but it is here now. We have no problem whatsoever in identifying with this particular clause because it is in the interest and welfare of our citizens and in this instance the teachers who have retired and who are about to retire in the professional, administrative and technical grades or levels. We want to fully identify and support this measure, as it will improve the quality of life and standard of living of the teachers in this country.

Thank you very much.

**The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne):** Mr. President, I rise in support of my colleague in the discussion of the Pensions (Amdt.) Bill, 2008. I rise particularly, not necessarily out of debating that was carried on by Sen. Mark, but to add some clarity to this business of Government pension and Government pension reform.

Would you wish me to withdraw, Sir, or would you allow me to continue?

**Sen. Mark:** He wanted to go first.

**Sen. The Hon. M. Browne:** On that basis, Mr. President, I would withdraw and continue.

**Mr. President:** Thank you very much. Sen. Ali, I do apologize. I did not see your signal. The custom is that whoever catches my eyes, although we have a custom but we would go Government, Opposition, Independent. I did look, I did not see you and I do apologize, but please continue.

**Sen. Basharat Ali:** Thank you, Mr. President. I accept your position. In joining this debate, I would like very much to join with Sen. Wade Mark in welcoming the hon. Minister of Education to this Senate. I have a little word of advice. After a discussion among ourselves, the Senators of this Bench, we felt



that we are often thought of as an extension of the Bench in front of us by Senators coming from the other House. I wanted to add that. I wanted to emphasize that point so that other Senators who come from the other House would take into consideration that this is a separate Bench from this one in front of us. In fact, we decided, I raised it, that we are a triangle. We are not an isosceles triangle or an equilateral triangle. We are a triangle with 15 Senators of the Government, six Senators of the Opposition and nine Independent Senators. I asked what kind of triangle is that. We came to the conclusion that it is a scalene triangle. I am sure the Minister of Education is well aware of what a scalene triangle is. It is a triangle with unequal sides. That is an engineer speaking.

When I saw this Bill for the first time, the Fourth Schedule, I immediately had in my mind what caused this to be brought here, that is the Education (Amdt.) Act that came here in 2005. The Fourth Schedule in fact is the Third Schedule of the Education Act. I remember that particular debate was a very friendly one. I remember it also because I abstained from the vote. I am sure the hon. Minister at the time remembered it. She apologized that she did not get my questions. I was a neophyte at that time. I was not aware of the whole background to this question of unification of the teaching and education service and the delinking process, which we were going through. I did have a series of questions. Since they were not answered, I decided that I would abstain, not because I was opposed to it. I like to vote on what I think I know or understand. When this came up this time and I saw it for the first time, I knew where it was coming from. It was the same Schedule. I went back to the Act and I thought it would be good to revisit what was said then in that debate. I certainly revisited the excellent contribution, a very measured contribution of the then Minister of Education.

**11.30 a.m.**

I was a little concerned when the hon. Minister, speaking in the other House, was a bit combative when she spoke about trying to correct a chaos. She said she wanted to discuss the historical development, and there is where I had a serious issue. The historical development as enunciated by the hon. Minister then—this matter started since 1993 with a national task force on education. Out of that task force came a White Paper in 1997, and it was called the White Paper 1993—2003, and it was accepted as a policy document in 1997. So, the UNC government was in power then.

The hon. Minister kept away from anything like the UNC and the PNM at the time. The recommendation of the task force which was appointed for the unification of the education services and delinking from the public service came up with certain recommendations.

The hon. Minister said that the Cabinet appointed a committee with the widest possible representation which recommended unification and partial delinking of the education and teaching service from the wider public service. The unification did not include positions such as clerical, secretarial and manipulative services which were not peculiar to the teaching service. I could see exactly why that was so. If they remained in those positions in the teaching service, they would be stagnant, whereas they would have much more opportunities if they were in the wider public service. I thought that the rationale for that was okay.

The Cabinet of the UNC at that time accepted the recommendation of that committee, and it was not their own personal recommendation. That committee was a very wide committee. I would not go into all the people who were there like the Permanent Secretaries from the Ministry. There was every institution I could think about. The list is long. The Minister could certainly verify that with you. I wanted to correct that in terms of the history of this Bill.

When the hon. Minister said in the other House that the historical development is illustrative of how good intentions could be thwarted by poor implementation, I was very disturbed. If this was decided in 2001—

**Hon. Le Gendre:** Hon. Senator, are you referring to the presentation made today or my contribution in the Lower House?

**Sen. B. Ali:** Hon. Minister, I am referring to your *Hansard* contribution in the Lower House.

**Hon. Le Gendre:** For that reason, I did not give that report to this Senate today. Some of the concerns that you have raised, I deliberately stayed away from them.

**Sen. B. Ali:** I thank the hon. Minister for saying that. I did note that there was not that kind of feeling. As I said, it was the first time I sat in this Parliament and found that nobody except me wanted to say anything against. Even Sen. Wade Mark was full of praise for the hon. Minister of Education on that particular occasion. I wanted to bring that in the open. I was depending on the historical development of the previous Minister of Education.

Madam Minister, I think you were occupied with Train 4 at the time in 2005, which was just going to be started up. So, in May 2005, when this debate was talking place, I know where you were then. You would not have been engaged in such matters as the Education Act and so forth. I excuse you, and I accept the historical development as given by the previous Minister.

I would like to ask a couple of questions on this matter. The first goes back to the amended Act, and that is the question of where do these delinked jobs come from. If you go to section 4 of the amended Act, 56(A) provides for the President to make regulations, prescribing the terms and conditions of employment of the holders of professional, administrative and technical office.

Section 56(B) is that until promulgation of regulations made under 56(A), the holders of professional administrative and technical offices shall continue to enjoy the terms and conditions of employment that are, at present, applicable to them.

So, when I saw the identical Schedule 3 which is now Schedule 4 with ranges, I realized then that we did not progress to the stage where these jobs had been delinked from the public service. I trust that I am correct in saying so. Further on, in the same amended Act, there is a question of where these positions will rest in terms of bargaining units, and section 5 new section 74M says:

“The existing association representative of the holders of offices listed in the Third Schedule shall continue to represent those officers until such time as the Registration Recognition and Certification Board certifies otherwise.”

Section 5 new section 74N is speaking toward the fact that an application for certification shall not be entertained or proceeded with where an application is made earlier than two years from the date on which this amendment comes into force which is August 10.

So, presently, this group of people who come under this Schedule can decide whether they want to stay within the civil service or whether they want to go to the teaching service. I think I identified that when I was speaking on this debate in 2005, that is, potential problems in terms of industrial relations.

One of the things that still bothers me is the fact that the two organizations that we are talking about have different phases in their negotiations. You can never compare them one-on-one. For example, TTUTA has an agreement until September, 2008. They are probably ready for negotiations again. Their salary negotiations correspond with the fiscal year of the Government, the country or the State, and that is October of one year to September 30 of the next year. So, when they say salary 2006, I understand or when they say salary 2007, I understand. The TTUTA schedule goes on to 2008.

I know this is a job which has to be done and that is the reevaluation of these positions with maybe a different kind of ranking from where they are now. How do you align them with the present categories or jobs within the teaching service? I still do not know that. I would like the hon. Minister to respond to that matter.

I did look at what we have available, and that is the negotiated jobs with TTUTA, and for 2007 I looked at a number of jobs. For example, at the Principal, Teachers' College which is grade 9, that is the top grade of TTUTA. I chose the middle or mid-point of that range. I did that on the basis that the mid-point should be representative of a competent person in that position. So, wherever I compare them, I compare them, 9D, 8D, 7D, 6D and 5D. Those are the numbers that I have looked at. I have 2006, but I prefer to look now at 2007, which has been completed. I would not go to 2008, because there is none for the PSA in 2008. So, there are still negotiations for all these positions.

Trying to line up these positions at the present grades against the PSA ranges, the highest range among the positions which we are considering is the Chief Education Officer. That is range 68, and above that they go to the Salaries Review Commission within the administrative sector. In 2007, as far as I can see, that salary including the allowance is \$15,004. Now, if I go to the Principal of the Teachers' College or the principal of a technical institute, grade 9D, in 2007 that salary was slightly higher. It is \$15,441 on the basis of 9D. I do not know where we are in this question of interlining, but it has to be done. Maybe it has to be negotiated. I do not know whether we have completed the exercise on these particular jobs.

The second job is the Director of Schools Supervision which is range 64, and that is a figure of \$12,550 for 2007. If I look at that, it equates to a department head of a technical institute and the primary school principal.

Finally, there is one job which the Minister referred to and that is a Schools Supervisor III which is range 62, and in 2007 that would have been \$11,777. That is under the TTUTA scale. Now, that falls below a department head in grade 6, and above the dean of a secondary school which is grade 5D. So, I am a little concerned where we are in this overall exercise and how long it is going to take.

The teachers themselves who are in these positions must also be very concerned, because they want to be secure. They want to make sure that they are getting the best deal for themselves. It is a very important question. I think the hon. Minister of Public Administration who might be responsible for all of this—I do not know in the present hierarchy whether he is or not. I would like the hon. Minister to react to this matter. I think it is a very critical thing.

I always say that if these two things are not in phase you are always going to get competition. The unions are there for that. I am sure that Sen. Mark would agree with me that they are there to negotiate for their members. I always used to

say that they are like the political parties. They have to satisfy their supporters; the people who voted for them. The union people also come up for election and they are in the same position.

I would like to find out exactly where we are and whether this question of these two different bodies, which are potentially there for these holders to join—in fact they can join themselves in a third group by applying to the Industrial Court for a recognition certification group, et cetera. Where do they stand? Have they decided that they want to stay within the public service or do they say that they want to go to the teaching service or do they say that they want a separate union altogether to represent them and they propose to apply to the Industrial Court? That is an important matter, because if they feel dissatisfied with either of the other two then they may choose to do this third thing. It is provided for in the amended Act. That is why I raised the matter today. I raised it in 2005 and I am raising it again today which is three years later.

Mr. President. I am hoping that I will get some answers there. I am pleased that this Bill has come here. I was hoping that the hon. Minister would have said how many retirees there are in this. If the hon. Minister has that number, I would be very pleased to sit for her to tell me.

**Hon. Le Gendre:** I do not have the information at the moment, but I would be sure to get it for you before the end of this sitting.

**11.45 a.m.**

**Sen. B. Ali:** Thank you, Minister; I wanted to look at those because I know you sent a message to them in your presentation about your pension being safe and the clause we are dealing with here provides for all allowances. I think that there are two allowances basically which go into that. There was \$500 from earlier on and I think the last one is \$700 for all the jobs. Although I saw for range 60, there is only \$250. I do not know on what basis these numbers have been put on there; additional special allowances, \$500 for all the jobs except range 60, which is \$250; this is the 2007 allowance that I read. That comes from the budget estimates compensation plan. So, I presume that those are the numbers in fact, the \$250, for range 60 and all the others up to range 68 at \$700 per month.

That is the allowances I believe which we are talking about in this exercise and the incumbents will be as much concerned as the people who have retired. The people who have retired may feel we do not have any rights again. It is in the context of that matter, I want very briefly to address another issue and that is the Retired Judges Association pension. This is a similar situation but these are all retired judges at the moment.

In January 2006, at the request of the Retired Judges Association, three members of this Bench, which included myself, met with the retired judges and they presented a position paper to us, which we took to the then Minister in the Ministry of Finance, informally, and to the then Attorney General, so that we could bring to them what the concern was of this most important group; those people who have given yeoman service; who have given sterling service at that level, the Judiciary and who now find themselves in impecunious situations and there really is so much which needs to be looked at.

I heard Sen. Mark talk about all the rest, maybe it is so that all the rest should be. I have spoken to the chairman of that group very recently and he tells me the situation very much is the same; there has been no revision of pension; retirees, if they go back to the 1990 or something like that, one can well imagine where they are in the hierarchy of pension payments. The more important thing is there are a number of them who are totally disabled in terms of being bedridden; just waiting there and not really being able to live comfortably on their pensions.

The wives too are in dire straits because both the wives of the living judges and those who have died, their pension dropped I think to 50 per cent or some number like that. So, some of them have accumulated expenses, debts from their husbands while they were alive, now that they are dead they have to deal with that.

I would like to make a plea for these people, just as the Minister of Education made a plea for certain categories of people who have retired now within the public service. I would like in fact to say, I have said so in Parliament and they would be very pleased to know that. I hope to follow that up by some discussions with the man who controls the purse strings, the hon. Minister in the Ministry of Finance and with the hon. Attorney General.

Mr. President, I am very pleased to support this Bill today and I hope that the problems that are related to the delinking in terms of classification and interlining will find a home and a settlement in the very near future.

Thank you.

**The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne):** Thank you, Mr. President. Like my colleagues on the Independent Bench, as well as on the Opposition, I would like to welcome Madam Minister to this Senate, to this Chamber. I stand to make a few comments on the introduction of the Pensions (Amdt.) (No. 2) Bill, 2008. I wish to make these comments

particularly in light of the statements which were made by Sen. Mark and I keep looking for him. Whenever I want to respond to him he is not here, so I have to talk to his empty chair.

**Sen. Dr. Nanan:** Talk to me.

**Sen. The Hon. M. Browne:** Talk to you instead? Okay, you will have to make up. By way of background, I want to just recall a week or two ago, we were discussing the introduction of Treasury Bonds as part of the measures being adopted by the Government to deal with the issue of inflation. In that contribution I did identify the fact that the Government was concerned with the effects of an inflationary spiral which would affect all Trinidadians and Tobagonians, particularly those who are on fixed incomes. In so doing that, there was need to stabilize the system.

We understand that the inflation feature or as featured in our economy is not simply the result of a monetarist perspective as suggested by the Opposition in particular, Sen. Wade Mark, where he was saying that we have too much money in the system that is chasing too few goods. I think the economic theory is adequately disposed at this stage, which suggests that monetarism as we knew it, and as practised in the decade of the 1970s and the 1980s, has clearly shown that it is not one way to solve inflation and inflation is not simply a monetary variable.

However, the use of monetary tools is an important part of controlling that feature and controlling the incidence of inflation and we have introduced the necessary measures to so do. I also made the point that there have been a number of other capacity building measures, which are in the course of preparation and in the course of implementation by the current Government to, in fact, remove some of the existing bottlenecks that exist in the system. In point of fact, there are a number of areas which have been identified and we know that worldwide, the trend in inflation has come from one, an increase in food prices and increase in food prices is multi-staged, multi-variable. It is in fact as a result of speculation, of flooding, a change in climate conditions as well as—how should I put it—the era of cheap food, which is now influenced by one of the fundamental ingredients: transportation, and transportation variable is also fuelled by, as we know it, high energy prices.

There is a multi-stage problem in addition to the reducing stocks in the world, in terms of food stocks, buffer stocks, which are now gone. We are also talking about increasing food production in terms of limited land resources, increased population and increased demand. That is a fact. We also know that as a result of

the change in energy prices many of the commodity prices have also gone up. So, there have been changes in the cost of construction worldwide because of our fundamental changes in the price level for basic inputs.

In that regard, the Trinidad and Tobago Government had clearly understood that the opportunity presented by Caroni, and I call it an opportunity, because at the same token Caroni (1975) Limited, in the past, represented, if one would consider it, I would hesitate to use the word a waste of resources, but in fact it was a loss making company, which kept and survived only on the basis of huge Government subventions.

An economic opportunity presented itself to make it possible to use the land, which was previously planted in sugarcane to make it available to farmers. That process is ongoing; we have represented and made several status reports in this Senate and there is also the statement, which was made by the hon. Minister of Agriculture, Land and Marine Resources recently, pointing at those capacity-building measures.

Other capacity building measures are taking place in the construction sector particularly, in the form of opening new quarries and I know that it was subject to a number of political attacks, about the use of a foreign corporation to create additional capacity to make aggregate available to the sector. So, there has been capacity-building measures which have been used and are in the process of being used by the Government, but some of them take time; the monetary variable takes time.

We know that the inflation is coming from two principal sources; energy on one side and energy prices, which is fuelling the world's inflation on one side; a reflection on increase in food prices. Both of them require time and it is the intention of the Government to do what is required to deal with the impact of inflation. *[Interruption]* I did not say that we take any responsibility; I said that the Government is working towards it.

With respect to the specific matters dealing with pension, it is clear that the Government has spent a considerable amount of time and resources in looking at the issue of pension and pension reform, but the issue is complex; it is not simple and it requires a number of perspectives to be brought to bear. This process started in 1995; you will recall that on the other side. In 1997, a 25-member pension committee for the reform implementation was started but it got nowhere. In fact, the only process in that regard was an agreement with NUGFW with respect to the implementation of a pension plan, which pension plan has not been



implemented because NUGFW has reneged on the agreement and on the matters, which were meant to be included in the pension plan. That is the only reason it has not been completed as at today's date and that requires renegotiation and recalibration and that is in process as we speak.

Real work really started in 2002, with a recognition of the need to look towards the year 2020 and the fact that we needed also to update the entire pension plan and the entire pension plan system and a committee was formed in 2002 and part and parcel of that committee was the preparation of a White Paper, the reform of the financial system, which included inter alia, a number of objectives in terms of reforming the pension plan segment of the financial system.

That working group established a number of objectives: The full portability or transferability of pension benefits; the harmonization of the national insurance system with retirement benefit pension and old age pension system; a guaranteed level of income maintenance in retirement; introduction of defined contribution programmes characterized by individual capitalization accounts; an appropriate integrated regulatory framework for the pension industry; an integration and consolidation of the various pieces of legislation governing the pension industry.

Now each one of those components was broken out and is set out in the White Paper on reform. Now, where are we with that? Well, the establishment of a legal and regulatory framework—I think the regulatory framework is in position, but the legal framework is not. We still have different pieces of legislation, approximately 17 I believe, somewhere between 14 and 17 spread around, which deal with the pension funds arrangements of various public sector bodies that still requires work.

We have also the supervisory changes which took place and that took place by an amendment of the Central Bank Act to bring supervision of the pension sector and which is evidenced by the report, which Sen. Mark talked about. This is a result of the fact that the supervisory regime for the pension fund system and insurance on pension funds was brought under the heading of the Central Bank, which was meant to make it a more robust regulatory regime and also meant to make its reports more comprehensive, as a result of which we had Sen. Mark making a number of statements and I am going to get to those statements in due course, because those statements are misleading, to say the least. I would challenge Sen. Mark to repeat them somewhere else outside of this Senate.

The pension committee after the establishment of the White Paper, there was an attempt to bring a certain intellectual, as well as scientific rigour to the business of pension reform by employing the necessary consultants who would do the valuation and numerate work required to put us in a position to understand where we were and what needed to be done. There was a tender process which was started in 2003. No tenders were awarded precisely because they did not agree on the scope of works and the deliverables, nor the fees; that was in November 2003. In 2004, a little hiatus, the process was restarted in 2005 to the same result. The process eventually bore fruit in 2006 when there were five tenderers in accordance with the Central Tenders Board Act and everything else that went with it.

**12.00 noon.**

As a result, that evaluation committee determined that Mercer would be awarded the tender and they did it by a very narrow margin over Beacon, Woodrow and De Souza where Mercer achieved a total score point of 81.2 points and Beacon, Woodrow and De Souza achieved 80.3. The project deliverables set out a scope of works including an exception report, a more detailed report which was set out, Government's superannuation liabilities and strategies to address these liabilities, a modern contribution, a contributory occupational pension plan for officers in the public service, the judicial service, statutory authorities, municipal corporations, members of the defence force, members of the higher Judiciary, members of the Industrial Court, members of the diplomatic service of Trinidad and Tobago and parliamentarians. The detailed cost of these plans, the reports on the progress of the consultancy and the draft reports as required, ending with a final report.

I have in fact given and made representation to this Senate in terms of where we are with regard to those reports, I think as recently as May, and it may be useful for us to go over where we stand. But before we do so, I just want to quote—and this is to corroborate the report of the actuaries and the work that they have done so far—The Seventh Actuarial Review, which is a review of the national insurance pension plan which was presented to this Senate and laid in Parliament somewhere between January and February. And I note on page vii in the executive summary where it is evaluating the past performance of the pension fund, there are a couple points we have noted and I quote from the Executive Summary:

- “vii For the next two decades, the pay-as-you-go (PAYG) cost of the system in terms of insurable earnings is expected to increase very slowly. The slow progression is explained by the delayed impact of the measure, adopted in 1999, for the revaluing of career earnings for the purpose of calculating pensions. The full impact will only be felt after 20 years.
- Over the same 20-year period, the impact of population aging builds up. Given the low fertility rate and the increasing longevity of the general population, the number of working-age persons per pension-age person will decline from 9.3 to 2.3 over the projection period of 50 years. At the same time, the number of NIBTT retirement pensioners will triple while the number of contributors is expected to slightly decrease.
- Due to the combined effect of the above-mentioned demographic factors, and the delayed effect of the indexing of career earnings 20 years from now, the benefits-to-earnings ratio is expected to begin increasing more steeply starting around 2035 and the PAYG cost is projected to double from 15 per cent to 30 per cent of insurable earnings between then and 2055.”

The implications of that statement are that as the population grows older the number of people who will be working in relation to the number of retirees will fall. The arithmetic generally used by actuaries is a ratio of four to one, and it is projected given our current rates of fertility and our current rates of progress that that ratio will change substantially over the next 50 years. And that is on the basis of the NIS—on the basis of general population statistics. The Mercer report came to a very similar conclusion, so it requires moving forward with a certain conservatism.

Now, Sen. Wade Mark also quoted from an IMF document which gave a recommendation that there should be a change in the retirement age from 60 to 65. That recommendation is made in the full knowledge and in the context of an ageing population. In other words, there is nothing magical about a retirement age of 60 years old, especially if people can work and continue onwards and that the population is ageing. On that basis it becomes much more expensive to maintain pensions on the existing basis or on any basis as long as the population is ageing and you have a declining number of working population, it is going to be more expensive, and the social security system has a negative economic impact, if I am going to be paying more tax than I am earning it is a disincentive to work. So there is a rationale and a reason to prolong your earning, life so that you can make additional contributions thereby isolating the new people coming into the workforce from having to pay higher and increased contributions.

So it is in that context—a very sensible and economic context—that that is the advice of the IMF. If we were to look around the region we would find out that that difficulty has already been addressed and it has been addressed in a country as close to the north-east of us, approximately 235 miles, called Barbados, which has reformed and in fact increased the retirement age from 60—if I am not mistaken—to 67 and has also taken a conscious decision to delay payment of pensions until the age 65. In other words, it is optional to retire at 65, if you retire at 60 the pension is going to be deferred until 65, in full recognition of the fact that ageing of their labour force has proceeded in a much more rapid pace than has ours. Precisely because it is a smaller labour force they had had to take that decision and to take that decision quickly to preserve the viability of the system.

So there is nothing sinister about that recommendation. That recommendation is practical; it makes economic good sense in addition to which it leads to sustainability, because if they did not do it, it would lead to an unstable social system. I make the point as well, that in addition to increasing the retirement age they have also made significant changes in the contribution rates at every level. I make that point. Now, the Government accepts and makes the point that a pension is something that it is committed to and the reform of the pension system it is committed to, but we are also committed to viability and we are committed to sustainability.

With respect to the interim report, and I might add that the interim report was delivered on March 25, 2008 and it did in fact confirm the unfunded liabilities of the Government at \$20.8 billion. Now, what does that mean “unfunded liabilities”? Well, if we were running a company and Trinidad and Tobago was a company, under the new International Financial Reporting Statements (IFRSs) or alternatively what used to be known as the International Accounting Standards, this is an international accounting standard call IAS 19 which requires every company to determine what the liabilities of its pension plan is. In other words, taking into consideration the age of its existing employees, the members of the plan, how much money it would have to put aside at today’s date to meet all the liabilities of those who were working with it, and it determines the liabilities at that particular date. And it is now a requirement that you include in your financial statements a determination of what those liabilities are at a particular point in time and also to provide a fund for it. So that is what we call funded or unfunded liabilities, and in the event that those liabilities are unfunded to make allocations and it is allowed in the IAS that you provide for that unfunded amount over a five-year period, such as would make good that deficiency.

The Government, however, does not operate a pension plan on the basis of a funding basis; it operates on the basis of a pay-as-you-go scheme. In other words, people retire and we agree to pay them and we agree to pay them in the future. We do not create a fund for investment purposes. What we are looking to do is to do just that, and what this whole consultancy exercise was set out to do was to determine before we start off, in terms of determining what is an appropriate plan, what is an appropriate level of contribution, how will we port, how will we do X, how will we do Y. Let us start off by determining what those liabilities are at a given date. And those liabilities were determined as at January 01, 2007, and that is the basis of the report.

Mercer has conducted an actuarial valuation of the pension plans for public service employees as of January 01. The valuation is based upon the current terms of the pension plan. Now, why did they take some time to do that? Well, of course, any report is as good as the data it gets, so it was important for them to determine: one, to make sure that they collected the correct data and given the fact that there were approximately 14 or 15—there are several different companies, several different state enterprises involved or parastatal agencies, it was important to collect adequate data. They also determined while they collect the data they had to verify the data and they determined there were missing records so they had to follow that up—and in other words clean the data—and ensure that the data had the level of integrity on which they could rely.

In addition, at that point in time, during the course of the exercise, there were also certain legislative changes, Act No. 17 assented to on July 10, 2007 and Act, No. 30 assented to on September 30. These legislative changes introduced minimum amounts to pensions, service pensions. In other words, it was not just simply what you retired at and what you are going to get, there is a certain minimum level introduced and on that basis certain recalibration and certain recalculations had to take place, which were including, reprogramming the valuation system to reflect new pension plan provisions, re-measurement of accrued liabilities and expected future cash flows, updates and revisions for pension projections and sensitivity analysis, modification of the funding alternative analysis and revision of the draft valuation reports.

The valuation which I spoke to and which I commented on in May indicated, if the plans continue to be financed on a pay-as-you-go basis, the working population remains stable, a growing number of retired public servants will need to be supported by a constant or shrinking number of working-age taxpayers. Projected impact on the changing demographics of the Government funding cost is highly dependent on, one: the level of inflation protection to be provided to retirees in future and the method used to finance these promises.

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It determines that the total liabilities as at January 01 amounted to approximately \$20.8 billion moving forward with 50 per cent inflation projected with certain assumptions with regard to inflation. That valuation would have been 24.5, and alternatively if we had protected it for inflation, 100 per cent, which is not possible anywhere, they would have amounted to \$30 billion. So, at that time the company was mandated to consider the design of a new plan moving forward. Before I deal with that new plan and to what was reported—Mercer has come back to us and did in fact present a report on July 16, 2008 setting out certain parameters in terms of what we need to do to work moving forward.

I simply want to make a response and I am glad to see that Sen. Wade Mark has come back. With respect to the report which I mentioned—the Central Bank Report—Sen. Wade Mark made the aspersion that a number of these plans were being wound up, and he wondered what was taking place. Who was being disadvantaged and so on, there were approximately—are listed in this report in the Appendix, the last two pages, actually pages 128 and 129, there are 55 different plans which were being wound up. Sen. Mark zeroed in on a few. Well, I am so glad that he zeroed in on those and I am happy to speak about those, but before I speak about those, 9, 10 and 11. Caroni (1975) Limited, employees' pension plan; Caroni (1975) Limited, daily-paid employees contributory pension plan; Caroni (1967) Limited, pension plan, those were part and parcel of the agreements made with Caroni Limited employees in terms of dynamising their pension plans. If those pension plans had remained in position, in the fashion in which they were, the pension which was guaranteed to those employees average \$150 per employee.

Those plans could not be left in the same fashion. We brought to this Senate the Interim Finance Bill at the end of May which asked for the replenishment of \$80 million. That million was to fund these plans after they had closed them down, brought them into one plan and dynamised them by adding in additional contribution sufficient to carry their pension from \$150 to \$650. So the purpose of closing those plans was in fact to make life better for the retirees with respect to the two specific plans [*Desk thumping*] of which my colleague, Sen. Mark made mention. [*Interruption*] I wish to deal with those specifically.

**12.15 p.m.**

He did in fact ask why they were closed and what was happening to the surpluses. Well, in the course of my contribution, I did identify that the Government was considering the movement away towards funded pension plans and pension plans which included individual capitalization accounts, something in

the region of annuity and something in the region of what the Americans called 401K, which allows individuals to make contributions of their own plans. There has been a movement and there is an implied recognition, precisely because of the experience of corporations elsewhere in the world that define benefit plans, that is, plans which set out what you will be paid in the future—which is what the Government plan is. It is a defined benefit plan—have generally created difficulties for the corporation that has sponsored them, or alternately have the capacity to “go bust” somewhere in-between those two difficulties. So there has been a movement and a recognition that there needs to be a mix of individual contributions, as well as company contributions. That is done voluntarily, and invariably it is done in consultation with employees of the fund. So there has been a move away from defined benefit plans, to defined contribution plans.

In particular, the two plans which you mentioned had very strong surpluses, and the only way to get at those surpluses was in fact to wind-up the plan. Now who asked for those plans to be wound up? Surprisingly, the beneficiaries, the employees. So the purpose of winding up those two plans was in fact to make provision and to allow existing contributors, those who were not retired to move into a new plan carrying over all their contributions which were vested. In other words, what the company had given me and what I had contributed to it, to carry it over into a new plan, and at the same token to free the surpluses which were distributed to the employees. That is why they were wound up.

**Sen. Mark:** Why was that not in the report, Minister?

**Sen. The Hon. M. Browne:** Well, that is another matter. I am not in a position to speak to Central Bank or defend Central Bank at this particular stage. The Central Bank has set out very clearly what plans were being wound up, it did not set out to say why. I am providing you with information that I know to be true and why some of these plans were wound up, and some of these plans with which I am familiar for one reason or the other. And in my other life as managing director running a bank, we, ourselves came to the same position and the only way to create a new plan to allow for the movement of employees from Plan A to Plan B, is to close the existing plan and start a new one. That is what the legislation requires and allows. It does not allow for you to change the plan as and where you go along, that has proven to be legislatively too cumbersome. So, I would suggest that before you throw stones, you look to see where you are. If it is a glass house you are going after or a mango, and variably if you throw it too high up, it is going to fall back on you, Sen. Mark.

**Sen. Mark:** Yes, yes, I hear you.

**Sen. The Hon. M. Browne:** Good.

**Sen. Mark:** I did not hear you on that.

**Sen. The Hon. M. Browne:** You did not hear me? Be careful where you throw stones; be careful where you speak half truths; be careful where you suggest or impugn motives which are incorrect. Interestingly, this is the final report. The agenda for the presentation covered four areas: the status of current pension arrangements; overview of the proposed pension plan changes; the financial impact of plan changes; and inflation protection for pensioners.

Mr. President, before I go on I must make the point that no plan is fully inflation proof. None! There is nowhere in the world that there is no risk and not in pension plans either. Invariably, you can only get out of investment what you put into it. What a funded pension plan does is to take money and invest it, as Sen. Rahman always tells me. He wants to know what NIB is putting their money in, the rate of return and what they are doing to improve the rate of return. That is what they must do. They must work at improving their rate of return and that is what a funded plan does.

But if the investments do not work out because there are no risk free investments; the only risk free investment of course, is a Government gilt-edge guarantee, a bond which you must buy and which NIB buys, by the way, that is the reason they buy bonds. Government does not give index bonds, what it does is give a bond with a fixed rate of interest moving forward. It would be silly to do anything otherwise, and the numbers of index bonds there are in the world are very limited. What we may do, is add or alternatively adjust the rate in a bond and adjust the rate fixing mechanism in relation to a particular rate of interest. That is done sometimes and it is done largely in relation to what is called a "floating rate bond", and the Government does issue some of those and NIB buys them too.

I have made the point that the Government plans as exists and exists across the board, and the whole series of arrangements under all different types of Acts from the defence force, the police service, WASA and from everybody else go back, 14 different Acts deal with this pension plan and the idea is to bring it into one. But that does require some work. The one plan that we do have which is in position, is the NIS plan and we have already done the necessary harmonization in accordance with the actuarial report in terms of harmonizing the old age pension with the NIS pension plan, and make it a calibration with regard to your current earnings.



I have also made the point that the Government's plan—and I have made the point in this honourable Senate—is not a final average. It is a final plan and that legislation has already been brought to this Senate which was referred to in the Mercer Report, which brings and recognizes acting allowances. I think that I had to respond to you, Sen. Mark, where people have been acting and acting for three years, that is treated as a final, your final salary. They do not go back to their substantive employment; it is treated as their final salary and the Government pension plan is a very strong pension plan because it does not average down. It has no averaging clause, and there is no averaging feature. Most pension plans, even the most generous of them give you a pension based upon your final three years average salary. Government pension plans do not do that, they give you that on your final salary. Sorry?

**Sen. Narace:** Ask Sen. Mark where he is investing his money?

**Sen. Mark:** I am not investing period. I will not take my money—

**Sen. The Hon. M. Browne:** No, but your plan is also being considered as part of these adjustments and yours is a final plan too. Overall, the current plans are generous. This is the report, overall the current plans are generous, particularly when viewed in combination with social security, in other words, NIS, from a cost perspective, plans are already very mature. The Government's liability in respect of benefits already that have been accrued is between \$20.8 billion and \$30 billion, which is the point I made before depending upon to what extent, we inflation-proof the benefits, depending on the level of future inflation protection.

If no inflation protection is provided, Government's liability is a percentage of GDP, is projected to decline from approximately 17 per cent in 2007, to 11 per cent in 2037. If 50 per cent inflation protection is provided, the Government's liability is projected to stay at the level of approximately 20 per cent of GDP. What is the status of current arrangements? From an employee perspective, the most significant weakness of the current plan is a lack of post-retirement inflation protection and that is understood and that is recognized. That is something therefore, that we have to treat with, but we cannot treat with it willy nilly, we have to determine what the economy can provide, what the economy can afford, and more particularly, what Government revenue can live with.

The current plans provide significant incentives to retire early. That is what the current plan does. So in other words, if we keep it in the present form we hurt ourselves, so there are some things that we need to do. So the best practice is to encourage later retirement and eliminate the incentives to retire early. So there are

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a number of things we have to do. There are a number of proposals which need to be considered and I do not want to discuss them in public because these plans also have to be negotiated. They have to be negotiated with several different unions and several different bargaining units, so there are things that we have to come up with. First of all, we have to come up with a plan; we have to determine what that plan is; then go and say: "Let us try to harmonize it and negotiate it."

The point I want to put on the table is that pension plan reform is not something in the willy nilly far off future, it is something that the Government is conscious of and is working towards. The Government understands its—how should I call it?

**Sen. Dr. Saith:** Obligations.

**Sen. The Hon. M. Browne:** Its obligations. Thank you very much, Sen. Dr. Saith—its obligations to its employees and its obligations to the public of Trinidad and Tobago, and the two words that we need to remember, that we must always remember, sustainability, viability. We need to consider that in the context of our aging population and what we need to deal with it, what is affordable. So, as we speak, these plans are being considered, the options are being evaluated—*[Interruption]*

**Sen. Mark:** Can we get a copy, Sir?

**Sen. The Hon. M. Browne:** Sorry.

**Sen. Mark:** Can we get a copy, Sir?

**Sen. The Hon. M. Browne:** No, I would not want to put copies out in the public domain at this stage of the game.

**Sen. Mark:** No, pass it out to me under. *[Laughter]*

**Sen. The Hon. M. Browne:** Sen. Mark! This is the gentleman that accuses me of not being able to answer question No. 26, but he has come here three times and told me what the answer is. He has come here three times and gives me the answer and is vexed with me because I have not stood up to tell him what he already knows.

**Sen. Dr. Saith:** Send it in the mail box for him.

**Sen. The Hon. M. Browne:** So, that mail box system you have could work for this one, but I am not giving it to you. In point of fact, Mr. President, hon. Members of this Senate, pension plan reform is active, it is ongoing and we are working on it and we understand what our obligations are.

I thank you. *[Desk thumping]*

**Mr. President:** It is 12.26 p.m., I think we will break for the luncheon period at this point and we will return at 1.30 p.m.

**12.26 p.m.:** *Sitting suspended.*

**1.30 p.m.:** *Sitting resumed.*

**Sen. Cindy Devika Sharma:** Mr. President, I would like to do as my fellow Senators did and welcome the Minister of Education to the Chamber. Of course, I could probably claim that she is my Minister of Education, since I am currently in the education sector serving as a teacher. I am very pleased to have her here today, and to be part of this discussion.

Before I begin to speak directly to the Bill, I want to state my utmost respect and appreciation to all those members in the education sector who have been serving tirelessly, generation after generation, to provide the best possible service to our nation's children and, in effect, toward building a better and brighter Trinidad and Tobago.

Since this Bill directly speaks to those technical officers, including the Chief Education Officer, schools supervisors, physical education, sports officers, et cetera, I speak on their behalf today and record my appreciation and gratitude. They are finally going to gain the substantial remuneration that they are entitled to, which they were not given in the past, due to the possible repercussions of delinking teachers from the teaching service and the effects of that, where teachers, in effect, became officers or workers who were actually earning more than those persons who would have previously been teachers, for example, schools supervisors. Of course, upon becoming schools supervisors, they, in effect, had a lower pay to teachers. They were actually supervising these teachers. It was an anomaly that had to be corrected, and this Bill today seeks to do so.

The debate so far seems to have taken a tangent in terms of pension reform itself. While I appreciate having the debate widened in that sector, I myself am not familiar enough with that topic to speak knowledgeably on the matter. I do wish to record my own belief that if we are dealing with something like this again, where we have a situation where workers in a particular sector are affected during a transition period in the reform process of education—because it was a transition from one phase to another in the reform process of education, which probably started from the early 1990s during the modernization reform process that we are currently going through.

Of course, in transitioning we saw the unfortunate event taking place; persons recognized that the needs of teachers were not being adequately provided for under the public service, and those retirees who left the service suffered greatly because of it, as well as the teachers already working.

This Bill which would bring all these technical officers into section 35, is indeed something that these officers are looking forward to, and they are hoping that it would be done in a speedy manner. I have no wish to prolong the agony of these officers.

It would have pleased me if we could have dealt with most of the legislation dealing with pension and pensioners more speedily or probably within a specific group. With the demands on time, the need to have the fullest debate and the fullest amount of insight into the issue, and the trashing out of all issues, I understand that, of course, it could not occur, because we are scheduled to go on vacation from next week.

I do not wish to stay very long, but I do wish to make mention of the problems that retirees still would face and still do face in the current system. When I speak about retirees, I am not merely talking about teachers alone or those educational officers who served very hard, but all workers in the public service as well as in the private service. Pensioners, of course, are those persons who have to face compulsory retirement upon achieving a certain age. While these persons have been serving throughout their lives to make a contribution to society and to ensure that they are able to provide for themselves and their families a certain way of life, upon retirement they are now faced with the prospects of a limited source of income. Currently, it is a fixed form of income. I know that persons made mention of this before, but it is still something of concern, particularly since within the public service sector there are different rates that pensions are calculated upon. It used to be 50 per cent for teachers, and now it is 66 per cent, I believe, of your final salary.

Of course, once you retire, that is the fixed sum you are entitled to, there is no change; so the concerns about inflation and the rising cost of living are things that we cannot avoid. What probably could be done, as was suggested by Governor Ewart Williams in his speech arising out of the National Financial Literacy survey results, is that clearly we need to educate our population, particularly our working sector, about how better to plan for their future. If it probably means that they have to learn how to contribute and create their own pension plan, whether it is in the form of an annuity or otherwise, to supplement what the Government is already providing, perhaps these are things that need to be looked into.

I do suspect that things like that would go a very long way to make sure that the lives of our citizens are improved. Of course, it means that we are ensuring that everyone has some measure of responsibility in the system, not only the Government, but also the workers, and it becomes a shared responsibility.

While I fear that I might be taking the debate into an area that this Bill does not seem to cover, it is something that must be thought about. These workers here have obviously been affected, particularly those workers who would have retired without benefitting from certain increases in salaries from, let us say, within the last 10 or 15 years.

Their salary, for example, when they retired 15 or 20 years ago, was considerably less than now. So you can imagine that they probably retired from a salary of \$5,000, perhaps, with \$2,500 and then they would have bills to pay and medical expenses, which are not getting any cheaper. While we might have things like CDAP and other forms of assistance for persons, it still does not negate the fact that it is very difficult to live out there right now, if you are the ordinary citizen.

Retirees do still have to repair their homes. Retirees in today's society also have to maintain families, because we have the phenomenon of young children, more and more, being left in the care of the elderly. This is placing a tremendous burden on these people. We need to consider that very carefully, because no longer are they acting merely as grandparents, enjoying the free time after they have retired; no, they are actually being called upon to have a lot more responsibility, something they probably thought they would never have at that age. This is something that needs to be addressed as well, and thought about when we consider providing a pension for our workers.

I know that speaking as a teacher and a member of the Trinidad and Tobago Unified Teachers' Association (TTUTA), I am aware that there are major concerns that they do have with having a pension plan which does not provide for increase, over that period of time after retirement. There are concerns about that, but it is across the board. It is appreciated that they cannot represent these pensioners themselves, because upon retirement they are no longer considered members of the workers' union. It does not mean that all the stakeholders cannot consider how best we could address the pension issue. I suspect that more Members would speak more knowledgeably about the matter of pension reform. I think that is clearly what we need to address.

I hope that the Government, along with all other stakeholders, is going to continue working very hard at addressing these issues, and make sure that we do show the utmost respect and gratitude to our pensioners, our retirees. This is one

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way in which we are able to do so, hence my support for this piece of legislation, once it is to the benefit of workers and teachers. I am going to be supportive of anything in that direction.

Thank you.

**Sen. Helen Drayton:** Mr. President, I will be very brief. I certainly add my welcome to the hon. Minister to this House.

I give my wholehearted support to this Bill. Teachers are entitled to their pensions. I do hope that those teachers who have retired receive their pensions as soon as possible. I am very glad to hear that the Government is considering a funded plan, not to do so otherwise certainly would be to continue to play roulette with the future security of teachers and other public servants.

This is because the financial windfalls that we have experienced in the past, and what we are experiencing now, certainly are not guaranteed for the future. It is, therefore, necessary that a funded plan, which would yield investment returns, be pursued. I do know that the right formula and framework must be found as soon as possible.

I take the opportunity to recommend that the Government consider a voluntary contributory aspect to this plan. I am aware of the Government's obligation under legislation to pay pension contributions for public servants; however, for the continued viability and sustainability of any plan, it is necessary that there be a contributory aspect to the pension plan, a funded plan that would yield investment returns and would also certainly cushion the effects of inflation in the longer term.

I am not of the view that there should be any index linked plan; that is certainly a prescription for a lot of trouble. Wherever such a plan was implemented, it certainly has not worked, and it just will not work regardless of whatever formula or framework one may wish to devise.

Finally, I believe that individuals must take responsibility for their future financial security. I am not for one minute saying that there are those who are not vulnerable and those who are not experiencing difficult times; I am certainly not saying that they are necessarily in a position to be putting out X further funds to support any pension plan.

I do know that teachers, particularly, those who have retired, comprise a special group: teachers, nurses and members of our security, members of our defence force. Traditionally these groups of workers certainly have not been compensated at a level that is consistent with their responsibilities and their obligations for the welfare of citizens.

**1.45 p.m.**

There are considerations. By and large I do not believe that the rank and file population of Trinidad and Tobago is experiencing such dire straits that they cannot meaningfully in some way take financial responsibility for their financial future.

I close by commending the Government for giving consideration to a funded plan. I hope that it makes progress with that as soon as possible.

Thank you.

**Sen. Mohammed Faisal Rahman:** Mr. President, I also extend warm and cordial welcome to the Minister of Education, confident that she will be very comfortable with the accent of our young Senator, Cindy Sharma, she will not be discomforted by it in any way. I am very happy to add my piece to this debate on the Pensions (Amdt.) Bill. I have a different view which you might call middle view to those that have been offered in the Senate today.

I have a great fear at the same time for the good intentions of this Pensions (Amdt.) Bill for teachers. I have a good recollection of legislation of what happened to an earlier pension entitlement. What had been established clearly, for decades as an old age pension was overnight converted to a discretionary grant by the Government. Our Prime Minister is on record as making it very clear that he is not in favour of providing for the retirement benefits of anyone, not even civil servants. I am a little concerned that the efforts here today to give pension entitlement to an additional number of people under the Fourth Schedule, may find themselves short-circuited along the way with a total revamping of the concept of pension that the Government has hidden in its Vision 2020.

We have heard of the difficulties in maintaining pension plans that are not funded.

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

There are many countries of the world where citizens who pay no taxes are provided for by the state from during the years of their employment as well as in their retirement years. There are many economies that are not like ours and do not have the benefit of the resources that we have. For us to ensure the future of our

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citizens in this country, we must look outward to areas which we can develop and will ensure the welfare of our citizens despite the looming demographic problems that seem to be coming ahead of us under the watchful eye of the International Monetary Fund (IMF). We should not seek as a policy to give up the idea of unfunded pension with the haste with which the old age pension was given up.

I will go back en passant to the fact that while we are validating this schedule of new entrants into this plan, we are automatically eroding whatever benefits they may have been entitled to under the Senior Citizens Grant in the fullness of time because that grant is determined by a pre-set ceiling which is half of the personal allowance that the Government recognizes now as being the minimum that an earning individual has a right to have for himself in order to survive. We have a \$5,000 tax free allowance per month and here we have a ceiling of half that amount. Whatever is given by way of this pension entitlement is being reduced. What would have been available of \$1,650 is discounted by that amount if the ceiling here exceeds \$2,500.00.

We have a difficult situation. Somebody mentioned catching up here. Simultaneously, you are giving certain categories of state servants 100 per cent pension entitlement for the rest of their lives. We have a situation where we are reducing the pension entitlements and the survival opportunities for a great number of our citizens who would be placed on the breadline.

One of the problems with regard to the funded pension plans that have been mooted, is that while we are taking much precaution to ensure that funding is provided for those pensioners in the future, we are losing sight of the fact that the national patrimony, the revenue and economy of the country are being concentrated in non-productive areas which will reduce the available funds which will normally be available for the entire benefit of the total community.

[MR. PRESIDENT *in the Chair*]

While we are seeking to revise non-funded pension plans for this new schedule, we are facing the risk of what appears to be a constructive approach to a future vision sucking out from the system money that should be reinvested profitably towards the money that will go towards funding these pension plans that are in danger of being revamped, convoluted and removed because of the future vision which is being forced upon us by those who have a particular paradigm for understanding and presenting how pension plans should work.

The history of this country is that we have come from a plantation economy. We have been through sugar, citrus and other economies and today, we have gas and petroleum economy. We never have a vision for the future where we can look



at a future economic paradigm which as the Ryder Scott Report tells us that in 13 short years we are likely to be without gas. In the interim we are busy expending the funds that we are getting. What are we doing to work towards ensuring that this category of people along with the rest of the workers, have something to fall back on?

We are looking forward to the time when we can remove these non-funded programmes to tend toward a funded pension system which the Minister in the Ministry of Finance indicated is never a sure-fire thing because the investments are not guaranteed. He spoke about the guarantees which you do not have. What we are doing with an inappropriate approach to economics is endangering not only the future older generation, but also the future young generations. If we proceed along the current line of the economy and construct buildings, we are thinking of not being able to sustain non-funded pensions. We are not thinking about not being able to sustain tremendously expensive transit systems and tall buildings which would require funding to be sustained. We are going into non-sustainable developments that are prejudicial to the maintenance of the human resource for which we should be catering. The human resource is the most important resource of the nation.

When we are going into structural developments and fearful for pensions, we have a right to be afraid. Right now we are squandering the money that should be put into programmes that will produce the benefits for the very people. If we go along this line and seek only funded pensions and strike off these as we struck off the old age pension very casually, we would find ourselves in a situation where life would be cheapened in this country and, sad to say, we would have to face the prospect of euthanasia being a preferred way to leave this life. The demographics that are being projected we are looking to a society of very old people in few years and a reduction in the number of the young working force. What are we going to do with the old people? If you are not going to provide for them and the situation is being further compounded it would be a grim picture. *[Interruption]* You do not like the picture I am painting. I am sorry, but this is the reality.

We are not seeking the means to sustain the nation's older people. If we are not careful about this we would find ourselves at a dead-end street. At the end of the day, this entire non-funded pension plan which was put forward enthusiastically can find itself shut off by a government decision as the old age pension was and everybody would be out in the cold.

I was asked not to speak for too long on this occasion because we would go very late tonight. Without going into all the points I had prepared to deliver here today, I say thank you.

**Sen. Dr. Adesh Nanan:** Mr. President, I rise to make a contribution on the Pensions (Amdt.) Bill. I also want to extend a cordial welcome to the Minister of Education, despite her unprofessional conduct when there was an attack on the young Member of Parliament for the constituency of Oropouche West.

I will respond to a statement made by the Minister in the Ministry of Finance. He made reference in his contribution to Caroni (1975) Limited. The Minister said that Caroni (1975) Limited was a loss making company and there were huge government subventions. There was an opportunity for the land to be available for farmers. Caroni (1975) Limited a foreign exchange earner. We had the opportunity in terms of the European World Market and sugar production. We also had a situation where the Government of the day, that is the UNC administration, had a restructuring plan for Caroni (1975) Limited which included private sector participation.

Many will recall that with respect to the rum stocks in Caroni (1975) Limited which were valued at about \$100 million, the PNM administration at the time ran a campaign to say that these rum stocks were valued over \$1 billion.

**2.00 p.m.**

I want to categorically deny that and to point out that the restructuring plan for Caroni (1975) Limited included the private sector participation. If we look at the situation as it stands now in Brazil, just to draw reference to Brazil, it has now expanded its sugar production. The sugar that is being produced in Brazil is now being used as a biofuel. We have had the opportunity, where we could have utilized our sugar, to produce biofuels that would have been used to drive cars. That is the truth. We would have been able to utilize our sugar to produce biofuels. With the ethanol that would have been produced, we would have been able to drive our cars and export our gasoline. We would have had more foreign exchange coming and we would have been able to pay retirees more, in terms of their pension.

Another area I want to deal with quickly is another statement made by the Minister in the Ministry of Finance, with respect to the dynamism as the Minister put it, of the pension plan for Caroni (1975) Limited workers. The Minister talked about an increase, in terms of the dynamism of the pension plan of \$150 to \$650.

As it stands today, what we are seeing, if that is true, is that the Government is giving in one hand and taking back with the other. Today the Caroni (1975) Limited workers, because of the ceiling of the old age pension—*[Interruption]*

**Sen. Dr. Saith:** Please, Standing Order 35(1), I am sure that the teachers who are waiting on this Bill will recognize that we have now started to debate Caroni (1975) Limited. I do not see the relevance.

**Mr. President:** Senator, I know that you are responding to the Minister in the Ministry of Finance, but he focused and spoke only with respect to the pension fund at Caroni (1975) Limited. Therefore, I think you should confine your response only to the issue of the pension fund, even though it has nothing to do with this Bill. We have wandered into the ether far enough, I think. I ask that you should try to contain your comments.

**Sen. Dr. A. Nanan:** I was speaking about the pension fund of Caroni (1975) Limited. That is point I am on. I took notes. The Minister said that, with respect to the Caroni (1975) Limited Pension Fund, there was a dynamism of the Caroni (1975) Limited for its workers. That was what the Minister said. They removed the pension from \$150 to \$650. Although the Minister made reference to \$150 to \$650, there was an increase and everyone said hooray. What is happening today is that the same Caroni (1975) Limited workers, under the pension fund situation, are not able to access the old age pension, because of the ceiling of the old age pension. That was the reference to that particular issue. You are giving them more money in one hand and then they are not getting the old age pension in the other hand. That was the reference to this particular issue. Those were the two matters that I wanted to deal with; matters in respect of the Minister in the Ministry of Finance.

The fourth Schedule on this Bill before the Senate today points to professional, administrative and technical officers. But the genesis—in fact the Minister, in presenting the Bill today, mentioned the year 1999, in terms of the history. If we examine this particular amendment before the Senate, we have to consider what brought about this particular interim allowance. We have heard other contributions, in terms of the anomaly, with respect to the increase in salaries for principals of secondary schools. At one point in time, you were asking supervisors to supervise principals or go into the secondary schools, but the salary of a principal was higher than a Supervisor I. The anomaly was addressed, in terms of the interim allowance.

It started way back before 1999, as was mentioned here, with the White Paper on Education. I recall quite clearly, because at that time from 1995, the government of the day had to look at the White Paper that was before it, with

respect to the policies and programmes. As was reported, the White Paper was adopted by the UNC government at that time. That White Paper mentioned the setting up of an education service.

I recall that we had a lot of discussion between TTUTA on the one hand and the Public Services Association on the other hand, with respect to the movement of these 39 officers represented by TTUTA. There was a great controversy in trying to get that kind of cooperation between the two unions. For the Minister to come today and say that there was a lull, in terms of what had happened from 2000, and that there was no action taken—It was an ongoing discussion which was very difficult as I remember at that time, to get them to agree on this particular issue. It was not a simple exercise. The exercise was also a part of the World Bank loan. The World Bank loan was premised on the White Paper. The World Bank loan was driving the whole process at the time, in terms of the pre-school, primary school and to some extent, the secondary school reform.

In terms of the retirees—because we have heard in this debate about the increase in the retirement age in Barbados to 67—I want to appeal to the Minister of Education. Many of these officers have served the nation’s children dutifully as a whole. I am aware that many consultancies are being offered in the Ministry of Education. Many of these retirees, who are still able to make a contribution, are being blacklisted for some reason. I want to make a special appeal to the Minister of Education to seriously look at the retirees from the various divisions, the curriculum development, and other areas. You can still play a role, in terms of their ability. You should not listen to hearsay when these choices are being made.

We are in a situation where there are also officers on this schedule such as the Technical Vocational Education Supervisor II and the Technical Vocational Education Supervisor I. In the plan, on the White Paper, there would be five years of secondary school and technical vocational which would be taken out of the secondary school curriculum. That would be post-secondary. These positions that are on this schedule would no longer be within the structure of the Ministry, because that particular area of technical vocational might be taken into a different part.

When we look at the various positions such as the Chief Education Officer and the Director of Curriculum Development, we have to ask certain questions. This particular structure that was put together already existed in the Ministry. These positions were already there. Part of the restructuring exercise was to improve the quality of education. We heard from other *Hansard*, I think it was said by the former Minister of Education, that the quality of education represents one of the critical success factors for national development.

I want to draw a reference here. Without the proposed amendment to the Education Act, not this one, the one that was before, it would be difficult and probably impossible to remove the present fragmented structures within the education system. That was what the former Minister of Education said. This is one of the main factors hindering the Ministry of Education's delivery of quality service. That amendment was laid before the House. Today our schools are still war zones. There is still poor delivery of quality service. The statement made here is that this is one of the, once this is achieved, main factors hindering the Ministry of Education's quality of service. We have to ask several questions. I hope the Minister is not perturbed when these questions arise. If this is one of the main factors hindering the Ministry of Education's delivery of quality service, why then is the delivery of quality service not being improved in that Ministry?

The facts are quite clear, in terms of the performance in the Ministry of Education, because our schools are deteriorating rapidly on a daily basis. Our schools are becoming war zones. Here we are seeing very important positions that we are considering: guidance supervisors, guidance officer I and guidance officer II. I am not saying that these people are not performing their duties.

I want to take you to the Constitution, because the Constitution at section 85(1) states:

“Where any Minister has been assigned responsibility for any department of government, he shall exercise general direction and control over that department...”

It is quite clear that the Minister of Education, in terms of the role, responsibility and general direction and control, had no or very little control of that Ministry.

How would you explain the fact that we have a situation or a fiasco, with respect to examinations? The Director of Educational Research and Evaluation is part of this particular schedule. The Director of Education Research and Evaluation is responsible for, if I recall, the Secondary Entrance Assessment Examination, which was once called the Common Entrance Examination.

**2.15 p.m.**

We also have Schools Supervisors I, II and III, and there are other positions. If you look at the Director of Educational Planning and the interim allowances, there is probably need for a restructuring approach with respect to the 39 positions. If I recall, part of the World Bank loan—

**Sen. Rogers:** On a point of order, Standing Order 35(1), relevance.

**Mr. President:** Make your point quickly.

**Sen. Dr. A. Nanan:** With respect to the World Bank loan and the IDB loan, these interim allowances were not only for these officers. These interim allowances were going to be extended, because in certain parts of the loan programme there was recognition that there was a scarcity of teachers in rural communities, especially in the outlining districts, and the loan programme was also extended to these officers.

The point I am trying to make is that with respect to the interim allowances and the restructuring exercise in that ministry—I am quite familiar with this matter and I know many of the officers who would be very happy to hear of the upgrade in terms of their pension benefits, but we have to face the fact in terms of the rest of the structure.

We are dealing with interim allowance here, but there is also another area that needs to be considered. I want the Minister to look at the shortage of teachers in rural communities. I am just mentioning that in terms of the interim allowances and the shortage that needs to be addressed. If you are dealing with quality services across the board, then you would have to deal with the shortage that is present in the system.

I also want to deal quickly with another area that was mentioned by the Minister in the Ministry of Finance with respect to an aging population, and the projection for the workforce in the future. There would be less people working and more people retiring, because of an aging population, but I also want to put on the table pensions for parliamentarians. I am a Member of a committee that was dealing with pensions for parliamentarians. We heard of the task force, and we were given a chronological approach by the Minister in the Ministry of Finance with respect to what is happening with pension reform.

Last year, when the matter was raised, we were informed—I do not know if that is still taking place—that parliamentarians would be in a different category and they would be speeding up the process, because if we were in the whole grouping with respect to pension reform it would be a long drawn out process. Parliamentarians made representation to be categorized as a special group, but I do not know how far they have reached in that area. It is a major concern with respect to pensions for parliamentarians.

As I am dealing with the aging population and the projections that the Minister spoke of and the unfunded liability—it is interesting that the Minister introduced unfunded liability into this debate with respect to the public service.

There has always been a bell-shaped public service, and we have a situation where the public service is expanding on a daily basis at the lower levels, and here we are at the higher levels in this particular Fourth Schedule, so we also have to ask the question

with respect to that particular statement that was made by the Minister in terms of the public service. There would be fewer workers, so they would have to pay more money to compensate the retirees.

I also want to make reference to a document which is the Memorandum of Agreement between the Chief Personnel Officer and the Public Services Association of Trinidad and Tobago. This document is dated November 07, 2003. It deals with pension arrangements serving in an acting capacity prior to compulsory retirement. It states at No. 7 of the memorandum that the Pensions Act, Chap. 23:52 shall be amended to provide for the following arrangements:

- (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 or her compulsory retirement, his or her superannuation benefits shall be calculated as if he or she has been substantively appointed to that office during the period.
- (b) Where an officer has acted continuously in a higher office for a period of at least one year immediately prior to his or her compulsory retirement, the averaging principle shall be observed in the computation of his or her superannuation benefits.

The above provision shall apply to an officer who retires compulsorily from a statutory authority on or after January 01, 2004.

I have to ask the question, in terms of the time frame, because this agreement was signed between the CPO and the PSA on November 07, 2003 and we are now in 2008. So, I am making a plea with respect to this particular agreement that it be considered as soon as possible. [*Interruption*]

As I close, we heard of the longstanding irritancy which would have been this particular situation to set up the education service. There was a structured approach that was taken, but what we are seeing is a haphazard approach with respect to the interim allowances. We hope that the Minister of Education would bring a comprehensive piece of legislation, not this piecemeal approach, to deal with the education sector as a whole.

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

**The Minister of Local Government (Sen. The Hon. Hazel Manning):** Mr. President, thank you very much. As one former Minister of Education to another former Minister of Education, I want to acknowledge that the education journey and reform is long, painful, tedious and ongoing. The hon. Senator on the other

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side kept making references to the history and to the World Bank Loan, but that was long before my time. I think the exact date would have been somewhere between 1995 and 1996.

I want to tell the hon. Senator on the other side, through you, Mr. President, that we have come a long way. We have seen many successes, and we have walked with our teachers throughout the process of this long and difficult journey of attempting to really fix the home while we live in it.

So, therefore, on behalf of the Senators on this side, I want to thank the teachers and those who work in the education system for their patience, dedication, hard work and for working with us to renovate the house in which we all live. Those on the other side did work to help upgrade the education system, and some of their efforts worked, but some failed. We on this side have continued the journey.

Mr. President, I want to join in this debate on a Bill to amend the Teachers' Pensions Act and Regulations, Chap. 23:52, governing the superannuation benefits to members of the teaching service, who at the date of their compulsory retirement are acting in a position higher than their substantive office.

Mr. President, I want to start in the year 2005, when it was agreed that the amendments to the Teachers' Pensions Act and Regulations were to take effect from January 2005 as ratified by Cabinet Minute No. 1663 of June 2005.

Prior to this approval, benefits for a person who acted in a higher office immediately before he retired were calculated on salaries of his substantive office, even though he may have been performing the duties of the higher office continuously for several years.

This Government is in total agreement with this proposal, because by and large our teachers are deserving. I want to join the Minister of Education and support this Bill, because teachers are our most important factor in determining the quality of education that our children receive. Therefore, this Government has a responsibility to ensure that teachers perform to the best of their abilities. To do this, this Government paid attention to a number of factors that affected teachers' performances. Teachers' compensation is critical for teacher motivation, because it constitutes both a formal and a social recognition of their work.



**Sen. Rahman:** Mr. President, on a point of order. I do believe that the Minister is addressing the wrong Bill. I think she is looking at the Bill which deals with No. 10 of 2008 and we are dealing with No. 7 of 2008. I am sorry to disabuse you.

**Sen. The Hon. H. Manning:** Mr. President, I will continue on the right Bill. [Laughter] Mr. President, I am well prepared. We have done quite well with our teachers. We are not like Jamaica where the teacher turnover rate is approximately 1,000 teachers per year.

### 2.30 p.m.

Our teachers have stayed the course. There are approximately 14,000 teachers employed in the Teaching Service of Trinidad and Tobago; 11,500 of them were surveyed by MORI Caribbean, a reputable research agency that conducts research worldwide. I am in favour of this Bill because the MORI poll conducted a survey between October 09 and 26, 2007, and there was a response rate of 78 per cent to that poll and the poll profiled our teachers.

A profile of our teaching service showed that of those surveyed, 27 per cent of our teachers were male and 69 per cent were female; 63 per cent of the teachers have been employed in the teaching service for between 10—30 years. Almost 45 per cent to 71 per cent of our teachers interviewed, stated that they were satisfied with their present job. Mr. President, 80 per cent found that their job was interesting; 77 per cent said that they were satisfied with the level of responsibility and 75 per cent felt proud to work in the education system.

This is a high level of job satisfaction for a very important group in our labour market. The research continued that almost 96 per cent of our teachers interviewed—

**Sen. Seetahal SC:** I just want to clarify something and all of my colleagues were asking. You said 69 per cent of the teachers were female and 29 per cent were male; there is 2 per cent missing there. We were kind of worried. [Crosstalk] [Laughter]

**Sen. The Hon. H. Manning:** There was a non-response rate, Mr. President. So, to bring my short contribution to an end, I would like to again support this Bill before us; to support the body of workers who are dedicated; who are committed; who are hard working; who understand the need to achieve developed country status, to ensure that our education system is on par with the rest of the world; who have worked hard; who, in their retirement are undergoing some difficulties;

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who in spite of the many challenges that they have had at hand, they have put their hands to the wheel and have been dedicated to guiding our children and by so doing, guiding the future development of this country.

Therefore, we thank them and I, on behalf of this Government, support this Bill.

Thank you.

**Sen. Subhas Ramkhelawan:** Thank you, Mr. President, for giving me the opportunity to speak on this Bill to amend the Pensions Act. First of all, I want to say that it is very difficult to argue against the notion of the relevant and correct pension for those who support the education system, whether teachers or at the supervisory level. Who can argue against that?

After all, our teachers and those supervisors are in truth and in fact our gurus, not criminals, but gurus, because you would know and many of us in this honourable Senate would know, that when we see our teachers and those associated with our education, 25 years and 30 years and sometimes in some cases, 40 years afterwards, we tend to call them Sir and Miss, because we cannot bring ourselves to call them by their names. Even if we may have progressed to different levels of economic status or other levels of status, we still hold them so dear in our hearts. Therefore, there is no argument for not paying our teachers and our educators what is their just due.

I want to touch on some aspects of this Pensions Act and the whole question of pension in general. I must say that I was fortunate to be a member of the committee, which was given the task of reviewing the financial services sector to come up with recommendations for reform. I recall the current Minister of Energy and Energy Industries was then the Minister in the Ministry of Finance.

It was way back and I should say way back in 2002, when we made our recommendations, which were then put into the form of a Green Paper and I suspect thereafter a White Paper and so on. I think the recommendations were well taken by the Government, but what I am concerned about—it is really a concern that I have across the board—is the speed of execution; from idea to execution. It is a concern that pervades, because we have all of these great ideas and then they get stuck somewhere in the parliamentary channels—no pun intended—then legislation taking so many cases, and I have to repeat, legislation takes so long to see the light of day.

I want to say to the Government, if we want to have an international financial centre, there is no way that we can allow legislation to take so long to find the light of day, because our international financial centre will come to naught. One of the

requirements of an international financial centre is the speed with which we can adjust and change our legislation to meet the need, because we are competing with the world. We cannot afford to be a donkey in a thoroughbred horse race if we want to be in that business or in any business for that matter. We are competing with the world. But back to pension legislation, lest I be called to order for relevance or irrelevance.

Maybe I should say one thing more with regard to that. It is important and imperative that the Leader of Government Business take action to decide upon a clear, coherent and cogent parliamentary agenda; what is important, what is urgent and what needs to be done quickly. I have spent the last year here seeing legislation coming from 2000 and 2001. It is not going to work if you want to be competitive in this world system. We want to become a developed nation by 2020 and one of the requirements to be a developed nation is speed of execution. You will be marked at the very low end of the table at this rate of execution.

Back to the Pensions Act and the amendment. I think when we look around the world there is a very strong argument for funded pensions. So, I want to commend the Minister in the Ministry of Finance for initiatives that are being taken for us to move forward in this particular area, albeit at too slow a pace, but we are heading in the right direction.

I thought I heard the Minister in the Ministry of Finance say that the present value of liabilities, if we had to quantify that as to pensions, would be in the vicinity of about \$20 billion.

**Sen. Browne:** Twenty point eight billion dollars.

**Sen. S. Ramkhelawan:** Twenty point eight billion dollars. I stand corrected. At \$20.8 billion as at January 01, 2007, which means we have not taken into consideration several changes that may have taken place in the last couple of years, one of which is the very significant expansion in the workforce that the Government is liable to, because of the expansion of these so-called state enterprises, which earn nothing but create very significant expenses for the Government. So, I suspect that the requirement to cover those liabilities would hardly be included.

**Sen. Browne:** Not included and not liable.

**Sen. S. Ramkhelawan:** Right, I think the Minister confirms, not included. That figure that we talk about, \$20 billion in present value terms, would expand substantially as we go along, if we continue at the rate that we are going.

That would be first in terms of the number of employees, but the second factor would be the rate of increase in salaries and emoluments that would have gone into the calculation of the pension requirement. I suspect that it probably would not have been at the rate of wage increases of 15 per cent for every three years. I suspect given the nature of the actuaries that we have employed, that it might be a slightly different figure.

I make this point to say that if we have more employees and a higher rate of growth in terms of emoluments, then that figure of \$20.8 billion could rise at a substantially faster rate than anticipated and balloon to a much bigger figure in present value terms than the \$20.8 billion. So, it is important that we move and move now to deal with pensions. We cannot wait another five years from legislation to execution.

I would like to recommend to the Minister in the Ministry of Finance, and to Government overall, that we move swiftly to institute a fund now in anticipation of what is going to happen with other pension fund legislation. Now, this would have a series of benefits. The first is that it would help the hon. Minister in the Ministry of Finance with his inflation initiatives. The second is, that we need to increase our level of long-term savings and it will help in terms of long-term savings.

The other benefit I think of a funded pension position is that we are going to move away from what is called a defined benefit for our public sector employees to a notion of defined contribution. Many times I have heard the complaint and the concern by public sector workers, who have retired that, "the value of my money is shrinking considerably." It is because they have received the defined benefit, because at the end of their period of service what they might get is some average of the last three years and they might get a commuted pension, a gratuity and so on, but it is rather a fixed lump sum.

#### **2.45 p.m.**

But to move from a defined benefit to this question of a defined contribution will require some mutual obligation, not only on the part of Government but on the part of our public sector employees of which these persons who are educators, who are associated with the education system are part. By mutual obligation, I mean that our employees are going to have to make a contribution to the fund, and I know that this might sound like a difficult proposition, but enlightened societies and enlightened jurisdictions have moved along that path and have done so very successfully because it creates another avenue of savings.

We can simply look at the story of Singapore, it is a jurisdiction that we often quote, which has not only I would say a similar fund to the Heritage and Stabilisation Fund, but also has a pension fund from which they can invest into all parts of the world. And now you see the success story of Singapore that has been saving along these lines for 20 years and 30 years that has been able now to buy into the Merrill Lynches of the world, to buy into the iconic financial services sector and other areas of leadership so that investment accrues to the benefit of the participants in those funds.

We do not have to go that far, because you would remember, Mr. President, some years ago—I believe you are of that age—when we had something called the National Investment Company (NIC) which would have allowed for our public sector employees rather than receiving \$6,000 or \$7,000 in emoluments bonds which may have now been frittered away we should have allowed them to participate in the investments of this country, companies that have done exceptionally well today on our stock exchange and so on.

So there is need for us to be able to talk in terms of mutual obligation, but with mutual obligation comes mutual benefits for all. I believe strongly that we need to put this plan in place and put it in very early for all the reasons that I have mentioned. Then, even if we take the figure of \$20.8 billion and put \$20.8 billion within the context of our current level of fiscal revenues, that is indeed, a very tall hill to climb. It is one of the reasons that we must start now. It is about 40 per cent of fiscal revenues, and since we saved less than \$1 billion it is more than 20 times our surpluses. It is a tall order, and therefore, again I reiterate that we must begin right now, not wait for some piece of legislation and calculations by actuaries who, by definition, move very slowly. We cannot wait five years or else the game would probably be over. We have a significant deficit if you were to look at it in company terms. If it were a company that had that deficit relative to its earnings it would have to go into immediate bankruptcy. That is the nature of the situation.

And so, I do not agree with my learned colleague Sen. Rahman, that we must continue with some unfunded sort of plan; we need to go the funded route. If we want to be one of the tigers, we must run with the tigers; if we want to be one of the thoroughbreds, we must run with the thoroughbreds, and we must not compare ourselves as one of the budding tigers; we must not compare ourselves with those that are lagging behind. If we want to be thoroughbreds we must not compare ourselves with the donkeys; we must compare ourselves with thoroughbreds, and

therefore, we must benchmark against those who are ahead of us to try and catch up; not just Singapore, look to Latin America. One of the tigers of Latin America, Chile, who we have often benchmarked against, has a funded plan. I think the point is made that we must move swiftly to a funded plan.

I want to speak to the national community, through you, Mr. President, about the benefits of a defined contribution. We have often heard the complaint about permanent secretaries. I heard only just recently about a permanent secretary whose monthly retirement was \$2,000 having worked all his life and one who would have retired in the '70s or just about there being \$750, and the reasons for this is because of this whole question of a defined benefit upon retirement. The Minister in the Ministry of Finance spoke to the question of persons living much longer. So the longer you live the smaller the value of your dollar if you get a defined benefit. Therefore, that is why we must move towards a defined contribution. So I cannot emphasize to our national community the need to move along this direction, we will have to find the right formula.

Then of course, there is the question which was raised by my colleague, the Minister of Local Government, what is the level at which the pensions are paid? I think she was referring to another Act or another Bill, but it is a valuable question, what is the level where we have people acting in positions for many, many years and then they get their pension determined on what was their last substantive position. Well, part of the solution is to solve the problem and making sure that people get organized in their position and get their promotions and so at the right time, but that is another matter.

I want to touch a bit on what my colleague, Sen. Mark talked about in terms of indexing, we cannot—and I do not think any nation can afford the notion of indexing. Indexing has a way of destroying nations, because one cannot project what our fortune will be or will not be as we go 15 years and 20 years down the road, but what indexing does, it locks us into an obligation that we cannot change at that point in time. So that the approach of a defined contribution will generate valuations and will generate benefits that are commensurate of course with risk and the returns will be commensurate with the level of risk, and therefore I think that that approach will go a long way to closing the gap between the increasing cost of living and the longer lifespan of our retirees. It is a more elegant approach; it is a more efficient approach than the approach of indexing, because the approach of indexing does not speak to mutual obligation on the part of both the employer and the employee, as far as contributions are concerned.

So, in summary, I certainly would support this Bill and I would like to suggest, as I have, that we move quickly to set up this fund at a time when our resources and our cash flows are at an order that we can provide some significant injections into a pension fund for our public sector. I endorse that with the old 65 is now the new 50, people are living longer and they are healthier, so I endorse the idea, if it does come to light, that we may wish to expand the working arrangements for employees; whether it be from 60 to 63 as in other similar jurisdictions or 60 to 65. It makes sense. *[Interruption]* So, I endorse that particular matter. And, so, I think that I have come to the end of my contribution as far as that is concerned.

Mr. President, I thank you.

**The Minister of Education (Hon. Esther Le Gendre):** Mr. President, I would like to say a sincere thank you to all the Senators on the other side at both levels for their kind regards *[Interruption]* earlier in welcoming me to this honourable Senate. To Senators Dr. Nanan and Rahman, if only because I appear to have caused you a bit of pain, I would sincerely like to apologize for any earlier remarks, if only because the pain was not intended.

**Sen. Rahman:** How nice, we do not always receive apologies here, you know.

**Hon. E. Le Gendre:** You are welcome. *[Interruption]* Mr. President, I am also happy for the spirit of cooperation that appears to exist in relation to this Bill and it is a spirit that we welcome on this side because we sincerely believe that when Bills come before the Senate in the public interest, and there is general agreement on the benefit of this Bill to a shared public in whom we both have an interest, then the real matter for debate is really an improvement, recommendations which we would heartily take on board if they fit within our vision. But nevertheless, thank you for the spirit of cooperation which appears to exist on this particular Bill.

The issue of pension reform has been quite competently dealt with by my colleague on my right so that we consider that matter—I suppose we will disagree on that because our view on this side of the Senate is that a pension is a peculiar instrument which rests on contributions for the sustainability as well as the viability of any pension arrangements that might be made in respect of a group of employees. What we can say though is that we really do appreciate that the whole

issue of pensions is a sensitive one. Whenever we speak of pensions I would like to go back to what it is we are speaking about. We are speaking about people; we are speaking about people who have reached a particular point in their life, people who want to enjoy the rest of their days with some level of peace and comfort.

Mr. President, I say it is a sensitive issue because the sensitivity comes from how do you tell someone who has reached this particular point in their life that the responsibility for how you live out the rest of your days is really yours. However, we appreciate that there are some people who for different reasons cannot live up to that level of responsibility because they simply do not have the means and this is where the State needs to step up and it does step up to support those persons, who, for one reason or another are unable to take care of themselves.

**3.00 p.m.**

Mr. President, we view the pension you get from your job as simply one level of support you get in your later years, to which you can add the national insurance pension and other personal pensions that you might have earned, to the many state programmes, like the Chronic Disease Assistance Programme (CDAP), the transport programmes and all the other state-supported measures which help to keep lifting people above the level of poverty, to a level where they can survive.

Much is made of the fact that our older persons have a certain level of expense. Some of them I understand are taking care of their grand kids; some have repairs to do on their houses, but the whole notion and philosophy of pension is linked to aging and how we prepare for the different stages in our lives. The pension that one might receive today, surely did not envisage that one would have to be taking away the responsibility of support from a younger generation. So these are rare cases, definite cases, but rare cases in which the older generation finds itself giving even a greater level of support to the younger generation, when it should be really the other way around. But enough has been said about pensions.

Sen. Mark asked whether it would not have been better to consider a consolidation of allowances into salaries. I wish to assure him that that is the eventual aim of this Act, to consolidate these allowances into salaries. To achieve this, that classification exercise which is going on now as a result of the delinking has to be completed. This also answers Sen. Ali's question in that we are advised that the CPO has almost completed it. The teaching service classification ends at the highest level of principal and what they are doing now is taking these other 39



posts, putting them on top of that and trying to come up with the most equitable way of stratifying those other 39 posts. So we are moving slowly and inexorably towards that position where we would have completed that unification of the teaching and education services.

Mr. President, the hon. Sen. Mark has also asked what is the effect on those persons who have already retired. I am so happy I have only good news for you, Sen. Mark, because all persons who have already retired will benefit from this. Accepted that, perhaps, they would have been comforted by that money earlier on, but better late than never. This is all part of it. All of the allowances and the benefits of this particular amendment will be retroactive, as well as it will also apply to all persons who have already retired.

Sen. Ali also asked a question and I did promise that I would have that answer for him by the time we next spoke. I am letting you know that in the service there are 28 officers between the years 2006—2008 who will be affected by this particular amendment. I think you have the answer to what is happening now, this is, the situation with the classification of the officers referred to here.

**Sen. Ali:** Is there a time schedule for the completion of that exercise?

**Hon. E. Le Gendre:** Sen. Ali, that schedule is entirely dependent on the expertise of the Chief Personnel Officer. Like you, I wish it were today, but it is an exercise that will be finished, but it really depends on the office of the Chief Personnel Officer. If there is anything we can do to speed up that process—I assure you that all the people at the Ministry of Education have a keen interest in pushing that process along.

Sen. Sharma, there is just a minor correction. I think there might have been a misunderstanding that some persons might not have received remuneration during this process. Again, I just wish to assure you that they have been receiving their remuneration and that device of paying the allowance is how they kept pace with the increases which were happening in the teaching service. They negotiated increases under TTUTA. The allowances paid to other officers was the device for keeping the proper levels of remuneration going. What we are seeking now to do of course, is to solidify that and correct it.

You also had a hope that we would be speedier in dealing with pensions as a group. Again, we are all about good news on this side. With the introduction of the IHRIS, a particular system, you will appreciate that dealing with 14,000 teachers on a manual system had to be something of a challenge and with the introduction of a computer system within the Ministry of Education, we have been able to look ahead and predict the retirement ages, which is what any good system should be doing. With the addition

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of a staffing unit in the pensions unit, they have been able to speed up the process of paying those pensions. It is not exactly where we want to be; it is a work in progress, but computerization has helped to improve what had been a pretty laborious manual system.

Finally, I would like to address a few, if not all, of the comments made by Sen. Dr. Nanan. Again, I am pleased to say that the education system has come a long way since 1999, I believe. I am also pleased to report that the technical and vocational system to which he referred is alive and well. We currently have about 862 teachers involved in presenting 24 technical and vocational subjects in 34 schools. There have been over 600 partial and 303 full certificates already awarded and expected to be presented in this year, 2008. To date, we have about 900 additional students registered.

For those of you who might be curious about the technical and vocational programmes offered throughout the education system, it allows our students an alternative path which gives additional certification in business, technical and of course, vocational areas. That has been a programme developed by my predecessor, another example of seamlessness in education and developed by the previous administration, in partnership with the private sector that has supported the ministry in developing all the competences required for the world of work and to be involved even today, in developing, promoting and extending that system throughout our schools.

Sen. Dr. Nanan spoke of the quality of service. Quality, of course, concerns us all. The Ministry of Education currently has ongoing within the Ministry, a programme which will assess all the service points within the Ministry and without, affecting both our internal, external publics with the sole purpose of refining, reviewing and ensuring that these meet the expectations.

The hon. Senator spoke of schools deteriorating rapidly. I absolutely agree that our schools are deteriorating. We have about 750 schools in our system and more than 400 of these are owned by our partners in education. These are not all government schools. The majority of these schools belong to our denominational partners and the whole approach, prior to recently, was one in which the plant was simply used up. What we are in fact faced with today, is a huge amount of plant that has deteriorated. This is why we are now speeding up and the Government is pumping so much money into the repairs of these schools. It is not at the cost of the denominational bodies, but at the cost of the Government.

Under the 2007 agreement, the Government now funds 100 per cent of repairs to be undertaken even at denominational schools. As you can imagine, there is a line-up and we will have to prioritize. In this vacation period alone, we have taken on an ambiguous programme to repair about 239 schools. In the last period we were able to repair just about 89, I believe. This is ongoing. We know that we have to tackle that backlog of serious repairs, even before we think of getting into a position where we are on a regular maintenance schedule with which everyone ought to be involved. So, we are not at routine maintenance as yet; we are still dealing with a heavy backlog of repairs. But again, with the establishment of the Education Facilities Company Limited, the Ministry has now been able to hand over all those issues and the whole job of keeping our plant in good repair to an organization that is better equipped to do so, while the education system focuses on its core business of education.

The former minister, today a Senator, spoke of guidance officers in the schools. Again, coming out of discussions that began under his administration, refined under this one, we now have a Students' Support Services Division that is slowly, but continuously building its capacity to deliver quality support, psychosocial support, guidance, et cetera, to all students.

The Senator spoke of a shortage of teachers in rural areas. We are aware that there is a shortage of teachers generally, but unfortunately, because of the system in which teachers are put into schools, because of the fact that they have a choice where they could go as well, we are unable to legislate, I should say, for the placement of teachers at rural schools. How we are addressing this problem, is by creating a greater opportunity for training. We have improved our ability to attract and, hopefully, to retain more persons in the education sector. I am afraid though, for some of you, this is going to mean much more advertising, not of myself, but we will need to advertise and we need to do so on a continuous basis. But joke aside, our advertisement strategy will change. Instead of putting those restrictions, we hope to be able to advertise continuously, so that we will be in a mode where we will be filling positions on a continuous basis and not stopping and starting in relation to one particular post or another.

### **3.15 p.m.**

I believe there was also a question about our teacher substitute system. Again, the good news is that there are just in excess of 500 persons who are already logged into our web-based system. Already we have moved from supplying teachers only when

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there are absences on special projects of the Education Ministry; we are moving now to extend the service to schools, for persons who might be on maternity leave or approved sick leave. It is a nascent system, but it is building slowly.

We will talk another time about absenteeism and what we need to do, definitely with your support, to fix a system that we all know can work better.

Finally, Mr. President, we come to examination leaks. We had a leak, we plugged it, we moved on.

We come back to the Pensions (Amdt.) Bill. I thank the Senators on the other side for supporting us; [*Interruption*] on both sides, on all sides, both levels; [*Laughter*] on all sides of this beautiful triangle. We thank you for your support, not for piloting this Bill, but certainly for your support of all the persons out there, the 14,000 teachers and the 28 retirees who are so looking forward to the passage of this Bill.

Mr. President, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

*Clauses 1 to 4 ordered to stand part of the Bill.*

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

*Senate resumed.*

*Bill reported, without amendment, read the third time and passed.*

#### TEACHING SERVICE (COMPENSATION) BILL

*Order for second reading read.*

**The Minister of Education (Hon. Esther Le Gendre):** Mr. President, I beg to move,

That a Bill to provide for the payment of compensation in respect of members of the Teaching Service who suffer injury or die in circumstances arising out of and in the course of employment with the State, be read a second time.

The intent of this Bill is to put into law the provisions of a memorandum of agreement which was signed between the Chief Personnel Officer and the Trinidad and Tobago Unified Teachers' Association (TTUTA), which is the bargaining association for teachers.

When enacted, this Bill would be deemed to have come into effect on January 01, 2005, which coincides with the date identified in the agreement. It would be useful to Members of this House if I provided a brief background to the drafting of this Bill.

As part of the 2005 negotiations for terms and conditions of employment for teachers, TTUTA submitted a proposal to the Chief Personnel Officer for the provision of compensation to teachers who died or were injured in circumstances arising out of and in the course of their employment with the State. Through a lengthy negotiation process, the association reached an agreed position on the subject with the CPO. This was formalized by the execution of the Memorandum of Agreement to which I referred earlier.

The contents of this particular item, detailed at clause 7 of the Memorandum of Agreement, once legislated, would provide a great benefit, again, for some 14,000 teachers.

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

It would put in place a structured, reliable and transparent medium, through which teachers or their beneficiaries could access compensation in the unfortunate event of death or permanent, total or partial disability arising out of and in the course of their employment.

I wish to address the specifics of the Bill, which put into effect that agreement of May 24, 2005. This Bill at clause 3 states that the State would pay compensation to teachers, in accordance with the terms detailed, where it is proven that they have suffered personal injury, died instantly or died as a result of personal injury sustained in circumstances arising out of and in the course of their employment with the Ministry of Education. I might add, at this juncture, that "out of and in the course of employment" includes all authorized activities undertaken even outside of the school compound.

This Bill allows for such claims to be made within four years from the date of death or within one year from the date on which personal injury was sustained. It must be highlighted that teachers who make a claim to the compensation committee, are not barred from seeking redress by way of our judicial system. It is not the desire of the Government to deny any teacher the right to seek redress before an appropriate court.

The Bill provides further for the establishment of a compensation committee to hear and determine the claims brought forward by teachers or their beneficiaries. This is the mechanism through which teachers' claims would be

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aired, deliberated upon, determined. This committee will have the power to regulate its procedure for initiating claims and for the overall conduct of its business.

These powers are given to the committee so that, as an independent body, it has full control over its business. What this means is that they would have total control over matters such as determining how their hearings would be conducted, and to establish the time lines for the delivery of their judgments.

Further, the committee, which would serve three-year terms and be eligible for reappointment, will comprise an attorney-at-law on the role of attorneys in accordance with the Legal Profession Act, with, at least, seven years' experience. This individual will serve as Chairman of the committee.

The committee will also comprise an attorney-at-law on the role of attorneys, in accordance with the Legal Profession Act, who will serve as secretary to the committee. A medical practitioner registered under the Medical Board Act with, at least, seven years' experience. A medical practitioner registered under the Medical Board Act with, at least, four years' experience in the area of occupational health and safety, and a person with, at least, three years' experience in the business of accident and health claims.

[MR. PRESIDENT *in the Chair*]

The Compensation Committee, once established, will receive, investigate, hear and determine claims for compensation filed in accordance with the Bill and the rules of the committee which they have the power to regulate.

The committee will make orders for compensation in accordance with what is contained in Schedule II of the Bill. The committee will also discharge any other responsibility as required by this Bill.

In airing a claim at a hearing before the Compensation Committee, teachers will be allowed to appear in person or to be represented by a named person or an attorney-at-law. At the hearing, the claimant has to prove all claims for compensation. This is the same process adopted in civil litigation whereby compensation must be proven in order to be awarded.

Once the committee hears a claim, it shall make a determination and give reasons for its decision. The committee premises the degree of permanent disability of the teacher, based on the medical report submitted.

The quantum of compensation, if awarded, will be based on Schedule II of the Bill. This Schedule was drafted in accordance with clause 7(3) of the Memorandum of Agreement of May 24, 2005.

The computation of benefits is based on the formulas used under the Workmen's Compensation Act, and this mode of calculation is being adopted as a result of the request of TTUTA and, furthermore, this is the standard practice for such computation.

At the risk of sounding defensive, once again I reiterate that the provisions of this Bill simply seek to put into law a negotiated benefit; one which was negotiated under the watchful eye of the union with responsibility for the teaching service.

**3.30 p.m.**

Additionally, in making a determination—

**Sen. Seetahal SC:** Thank you for giving way. I want to find out if there is any limit or qualification on the right of the individual teacher to sue in relation to injuries sustained in the course of employment. I do not see any mention of it in the Act?

**Hon. E. Le Gendre:** Do you mind repeating the question?

**Sen. Seetahal SC:** In clause 17 there is a provision in awarding compensation that the committee shall take into account damages awarded to a teacher or his beneficiaries irrespective of the same injury. That means damages awarded before the committee sit. It must mean that. Does it impact upon the right of the teacher to sue other persons? For example, if it is another teacher or a student who hit that teacher in the course of employment?

**Hon. E. Le Gendre:** It does not. The Bill is described very tightly around the beneficiary and the person on whose behalf TTUTA has negotiated. That is the teacher. I assume that in the normal course of things the teacher will be able to make whatever claims he or she needs to on the parties they felt might have contributed to their position. That is their right.

Additionally, in making a determination the committee takes into account whether the personal injury or death of the teacher was caused and to what extent by any type of illegal activity. The committee will determine whether compensation is due under such circumstances or there was contributory negligence on the part of the teacher and if so, to what extent. These issues will affect the award made by the committee.

Any teacher who is not satisfied with the determination made by the compensation committee has the right of redress before the Court of Appeal. This appeal must be filed within six weeks of the date of the decision delivered by the

compensation committee. This right of redress directly to the Court of Appeal, illustrates the Government's recognition of the important role which teachers play in our nation.

The Court of Appeal is the final court within our Republic and it is here that the noblest of our judicial officers reside. Therefore, it is a privilege to be afforded direct access to the Court of Appeal when one is not satisfied with a determination made in respect of one's claim.

Our Government operates on the principles of accountability, transparency and value for money. As such the compensation committee which I have described is by law required to submit an annual report of its operations to its line minister, the Minister of Education, who would in turn lay such reports in Parliament within three months of its receipt.

In essence, this is the full scope of the benefit which was proposed, negotiated and agreed to by TTUTA. It is important to note that this Bill is fully circumscribed by the provisions of the Memorandum of Agreement.

In the other House a number of issues were raised relating to provisions which, because they did not form part of the negotiations or agreements, almost succeeded unfortunately, in sidetracking that House from the business at hand. However, I wish to advise that despite the recommendations for enhancements that might be brought forward at this juncture, the Government may not unilaterally vary the content of the Bill which is based on the written agreement and all its cost implications in the context of the total package of the terms and conditions negotiated at the time.

This Bill enhances the range of existing benefits available to teachers in respect of injury occurring during the course of employment. Teachers already access injury leave with full pay in respect of personal injury which occurred out of or in the course of employment. I might highlight that injury leave differs from extended sick leave and its duration is dependent on medical reports submitted. This benefit is on par with what exists in the public service and it is superior to what exists in many different sectors even in private enterprise.

Teachers will not only be able to access full-pay injury leave, but they would be able to access compensation for the disablement sustained out of, or during the course of their employment.

Furthermore, we understand that the Chief Personnel Officer to this time has not been approached by TTUTA with respect to any amendments to the existing agreement which gave rise to this Bill. We can assume that this particular Bill continues to meet with their approval.



In conclusion, I submit that the terms of this negotiated benefit as outlined in the 2005 Memorandum of Agreement is accurately reflected in the Bill. This Government is confident that the Bill once passed, would bring a true and lasting benefit to all our teachers. I move to commend this Bill to this honourable Senate.

Thank you.

*Question proposed.*

**Sen. Wade Mark:** Mr. President, the Bill before us deals with the provision of payment of compensation to members of the teaching service who may have suffered injury or die in the circumstances arising out of and in the course of employment with the State. I understand fully the submission made by the hon. Minister in the context of an agreed memorandum of agreement arrived at on May 24 between the Trinidad and Tobago Unified Teachers Association and the Chief Personnel Officer, as they sought to formalize this particular arrangement, so that 14,000 teachers or thereabouts would benefit.

Mr. President, you will agree with me that it will be difficult for us in the Parliament to alter or adjust any of the provisions of the Memorandum of Agreement. You will agree that within a framework of extremely poor compensation mechanisms for workers, TTUTA was left like many other organizations within the public sector without a choice in agreeing or arriving at this Memorandum of Agreement, in order to provide the workers and members with some degree of protection. This cries out for labour reform in this country.

We talk about globalization and modernization, but labour reform has not kept pace or abreast with the so-called modernization period and global era that we have been subjected to over the last decade or two. We have a labour market that is crying out for reform and in the absence of any kind of positive development or responses from the Government and trade unions have to resign themselves to a very backward piece of 1960 legislation called the Workmen's Compensation Act.

The T&TEC workers and the employers have had to devise their mechanism to compensate workers because of the backward nature of the Workmen's Compensation Act. It is nothing to howl or shout about when we meet today to discuss a memorandum of agreement between TTUTA and the CPO to provide payment of compensation in respect of members of the teaching service who suffer injury or die in circumstances arising out of the course of employment with the State.

It would have taken us about two and a half to three years for this piece of legislation to come here to give effect to an agreement that was signed some time in May 2005. Whilst it will be retroactive it means to say that the injury that teachers may

have suffered would have gone unrewarded. Maybe, teachers may have died. I do not have the facts on this matter. It is very unfortunate that the hon. Minister of Education has been unable to provide this Senate with any statistical information, either as it relates to teachers' injury on the job over the last two, four or five years. How many teachers have died on the job over the last five years? How many teachers may have been involved in serious injury on the job? Is it one?

**Hon. Le Gendre:** One died.

**3.45 p.m.**

**Sen. W. Mark:** One died. I got the information, so you do not have to get up. I thought that the hon. Minister would also provide us with any statistics that she may have in her possession, dealing with injuries that teachers may have encountered or experienced over the last five years. I do not know if there is a register at the Ministry of Education that would give us a detailed account of injuries experienced by teachers whilst they were on the job. I do not know. If you have that information, I would like you to share it with this honourable Senate so that we would be able to appreciate it.

We know that in Trinidad and Tobago, there were over 3,000 workplace accidents during the last year. That is what was reported in the newspapers. Therefore, the right of workers to a decent and reasonable compensation, when they are injured on the job or when they die whilst performing their duties, has been long overdue. We do not believe, with the greatest respect—I understand how this agreement was arrived at and we have to support the agreement. We cannot, in any way, alter the contents of that agreement, but it is incumbent upon us in this Parliament to take steps and to encourage this Government to take steps to bring about a more modernized and up-to-date compensation arrangement for the working class of this country. You do not have to look very far, hon. Minister of Education. Whilst your responsibility is to deal with the teachers, which you have done by bringing this piece of legislation here to effect the Memorandum of Agreement, it is your Government's responsibility to go a step further, because it is not only teachers who require protection at the level of the workplace, when it comes to injury or death on the job.

Nowhere in this agreement is reference made to industrial diseases or diseases on the job. We know that there are diseases on the job that impact upon the well-being of teachers in the profession. Where can I find information that would address this question of diseases? What about work-related illnesses? Is there any provision in this agreement that would address that? What about stress? That

is a work-related illness. What about infections that they experience such as asthma, vibrations, spine and back disorders and hearing loss? They use their fingers a lot, in terms of writing on the board. This agreement, whilst we have to support it, falls very short of providing teachers in this country with the kind of protection that is necessary for them to be duly rewarded if they were to get injured. In the instance of dying, how would they be compensated? We believe that this particular measure that is before us today is a replication. It is so unfortunate.

I have in my possession a report of the Protective Services (Compensation) Committee. I also have in my possession the Protective Services (Compensation) Act, Chap. 23:60 of 1996. There is every single word, expect that in this Act we talk about the police officer. In the Bill that is before us today, they have to change it to “teacher”. This was in 1999. We signed this Memorandum of Agreement in 2005. This is a complete replication of every single provision in this Act called the Protective Services (Compensation) Act. Do you know what is even sadder? In the report dated October 2005 to December 31, 2006, the chairman who wrote this report pointed out the limitations of this particular Bill and it is the same Bill and same provisions that are contained in the Protective Services (Compensation) Act that have been replicated in the Teaching Service (Compensation) Bill that is before us.

When you look at this report, teachers are in for a hard time. Teachers are not going to be compensated as we are being told here today, because of the limitations of the legislation and because of the limitations of the provisions contained in this particular Bill that is before us.

Mr. President, if I may just engage you. I want to let you know how this particular measure is going to disadvantage teachers, whilst we have to support it and we have to agree with the terms and conditions that they have agreed to and signed off on. I would give you an example of what has happened to police officers in this country.

The chairman of this body has been appealing to the Government for several years to amend the Protection Services (Compensation) Act. After 11 years, there have been no amendments to this piece of legislation protecting police officers. Do you know what that has resulted in? I will tell you.

On page 10 of this report, which is a replication of what we have before us, there were 114 claims submitted over a period of 14 months, only 11 or 9.6 per cent received favourable judgments. These judgments, the 11 or 9.65 per cent,

resulted in a total system payout of \$2.2 million during that particular period. It went on to say that 93 claims were dismissed. There are appendices indicating police officers who were injured in the course of duty. They were shot and, because of the limitation of the Act and the provision in the Act, they have not been compensated and their claims have been dismissed. Imagine, out of 114 claims coming before this committee only 11 were successful. What does that tell us? We are passing a measure to protect teachers and to compensate them in the event of injury or death on the job, but for every 100 teachers that would have been injured on the job, given the reputation and the kind of experience we have had with police officers, we are sure that scores of teachers would not be properly compensated or they would never be compensated. This is a whole tomfoolery exercise that we are going through. Few teachers would get some compensation, but the majority of teachers would be like these 93 police officers, out on a limb without any compensation.

If I were to read for you some of the claims that were dismissed by this compensation committee, consistent with the Act that governs their operation, they would make your heart boil. It is very sad, because we are talking about police officers and now we are talking about teachers and the situation is very bad.

I would like to indicate to this honourable Senate that in this report, the chairman sought to approach the Solicitor General to provide solid cases, but they did not qualify; given the provision and the formula that were provided in the legislation. He wanted to provide officers with *ex gratia* awards and that was not granted. The Solicitor General did not respond positively towards police officers, 93 of those officers' claims were dismissed outright.

Therefore, hear how the claimants, the police officers, responded. I raise this matter to let you know that whilst we would be supporting the legislation that is before us, we support it with a heavy heart, because we do not believe that teachers would get the kind of justice that they deserve if something were to happen to them on the job. Let me read for you from page 11, the response of police officers who were told that their claims were not valid and therefore dismissed.

“The reaction of the claimants upon their claims being dismissed cannot be ignored in this Report. All such claimants have vociferously expressed their disappointment and hurt over not being compensated after ‘sacrificing’ their lives for the safety and security of the citizens of Trinidad and Tobago. They all expressed the view that the Act”—which is the Protective Services (Compensation) Act—“is misleading as to the purported entitlement of Officers to compensation as declared in the Preamble or is otherwise deficient.”

You have officers who felt that they were doing their duty to this country and they ended up submitting their claims for compensation and those claims are dismissed because the legislation and the provisions within the legislation are so narrow that they do not provide the kind of provisions to give these officers, through the compensation committee, the opportunity to provide them their much deserved compensation.

May I just go on to page 13 to let you know what was done? I want to read, Sir.

“It may be that, even if the present limits remain, consideration can be given to an amendment to the Act giving the Committee power in claims involving injury to the Claimant, exceptionally to award compensation in its discretion outside of the present limited circumstances.”

This is what the chairman is reporting on page 13. [*Interruption*] The chairman of the report? We did it in 1999. It does not mean to say because we passed the Act, if there are limitations in the Act since 1990—we passed the package of children legislation. You went to a special committee. It took you seven years to upgrade and enhance it. Why did you not take the recommendations submitted by the chairman, report after report up to this year, 2005 and 2006, and bring about the necessary amendments in order to protect and provide our police officers with better compensation packages when they die or are injured on the job?

Let me continue. Hear the claims that have been dismissed by the compensation board.

**4.00 p.m.**

“Claims which involve gunshot injury to Claimants from criminal wrongdoing should we feel automatically qualify for compensation.”

This is what the board is saying. When a policeman is shot, he should be compensated. It goes on to say.

“So too should injuries sustained in hot pursuit of criminal wrongdoers.”

So, here it is police officers are in hot pursuit of criminals and wrongdoers, and in the process of being in hot pursuit they are shot, under this Act there is no compensation for them. That is what the report is saying. It continues:

“Yet the Committee has had, having regard to its present limited jurisdiction to award compensation, to dismiss such and like claims where the Claimant although visibly continuing to suffer great trauma and loss has not in fact lost a limb or the use of a limb.”

Therefore, they are calling on the Government to make amendments to address what appears—having regard to the objective of the Act as indicated in its preamble—to be a grave injustice to such claimant.

I think this is something that we ought to take on board. I am sorry that the Minister of National Security is not here. I do not know who is acting on his behalf, but this is a matter I would like Sen. The Hon. Dr. Lenny Saith to take on board, because this is going to be replicated when this Act is passed. Teachers may not get shot, because they may not be in the line of fire, but they are going to be experiencing similar challenges related to their field of work, and they would not be able to get the compensation that we believe they should get, given this agreement before us.

I want to submit to the Government of this country that if it is serious about giving and providing comprehensive coverage—I applaud the teachers and TTUTA for fighting and getting this agreement for its members. We support it, but what about the other workers in this country? They are governed by a 1960 outdated Workmen's Compensation Act that has severe limitations, and you do not have to look far.

I want to commend Sen. The Hon. Dr. Lenny Saith and the Government of this country to look at Bill No. 1 of 2001 entitled the Employment Injury and Disability Benefits Bill. We tabled this Bill in Parliament, but we were not able to carry it through, because the government was hijacked from us and given to them on the grounds of spiritual and moral grounds. Even the former President is now regretting what he did.

**Sen. Browne:** Did he speak to you recently?

**Sen. W. Mark:** I would like to invite Sen. The Hon. Dr. Lenny Saith, the Minister of Trade and Industry, to look at this Bill, because Bill No. 1 of 2001 was an attempt by the UNC to give comprehensive coverage to all workers as it relates to—

**Sen. Annisette-George:** When you come back.

**Sen. W. Mark:** You are telling me when I come back, but I want you to do it whilst you are there. I want you to leave your mark. No pun intended. *[Laughter]* We are calling on the Government to bring to this Parliament comprehensive legislation so that workers could be properly compensated when they are injured on the job or when they die on the job.

If this Government is serious, do not just confine this to teachers. We support the teachers in what they are doing, and we support TTUTA in the measure that is before us in the form of this Bill, but it must be widened. How can we talk about

workers—we love workers and care for workers—when we do not have legislation that is adequate to protect the interest and welfare of the working class of our country. The compensation is extremely poor and, therefore, we are saying to the Government that we in the UNC brought to this Parliament the Employment Injury and Disability Benefits Bill which establishes a board with the responsibility for the administration of this Act to receive and to determine claims for benefits from workers in this country.

This Bill gives coverage to all workers of the country; whether they are in the public service or whether they are in the private sector. It would have required a three-fifths majority to be passed and we would have established an employment injury and benefit fund which the employers would have had to fund in order to deal with workers' problems in terms of injury on the job. Where is that Bill? Where is that fund? We are in 2008 and we are talking about Vision 2020. That is hypocritical mountains.

If the Government is serious about Vision 2020, the driver of that productive base is the working class. You have to retool the working class, as you are retooling the industry, in order to make them more productive so that our economy can become more competitive, but I am not seeing any signs of these things happening. Instead, in the Bill that is before us, we are seeing in clause 13(3)(a):

“In hearing a claim, the Committee shall determine—

- (a) whether the personal injury to, or death of the teacher was caused, and to what extent, by his participation in any type of illegal activity and whether any compensation is payable under the circumstances.”

Is that not an oppressive provision? They have put the burden of proof on the teacher, when the burden of proof should be on the State. This is an oppressive provision. You have to prove to a committee that you were not involved in any kind of activity that brought about your personal injury. That is an oppressive provision, but we cannot remove it now. *[Interruption]*

I want to invite the Attorney General, who is talking about standards, to go to our legislation and see how we have shifted the burden of proof from the worker to the State and the employer. Do you think that you are living in France? Under our Constitution, a person is presumed to be innocent until proven guilty, and they are telling me that I am guilty. Prove my innocence! You have shifted the burden, so prove my innocence.

Mr. President, I am not in support of that. I am suggesting to the hon. Attorney General that she should look at our legislation in order to give these teachers a better deal. It is already too late, because they have signed it, but the Government has enough time to rethink its position and bring to the table modern legislation dealing with employment, injury and disability benefits for the working class of this country.

I think this Government is anti-worker, anti-trade union and anti-democratic. This Government has been in power for all these years, and the Workmen's Compensation Act has been on the books since 1960—this Government has been in power since 1956—and it took a UNC government to bring modern legislation in 2001, and because we lost office in October or December of 2001—the Government of Trinidad and Tobago got this piece of legislation when it came in, and they did not do anything with it. We are in July 2008, and the Government brings something here that really would not benefit the teachers but, as I said, we have to support the Memorandum of Agreement signed between TTUTA and the CPO. We cannot turn back on this matter. That is their matter and we have to support them on it.

I would like the hon. Minister of Education to tell us what allocation has been made in this year's budget, given the fact that this measure is going to be implemented through legislation. Is there an allocation in the estimates for this particular provision that we are dealing with here? I would like her to tell us.

I would also like the hon. Minister to indicate, given what is taking place in the teaching service, if there is a projected payout that the hon. Minister anticipates over the next five years as it relates to teachers' injury in this country.

What measures is the Government taking to address the question of safety and health at the workplace in the education sector? Is there collaboration between the Government and TTUTA to deal with raising workers' consciousness and sensitivity as it relates to matters of safety and health at the workplace? I would like to get answers to these matters.

Today, in our country, we have 625,000 workers or thereabout. Under the trade union umbrella, we could have about 150,000 workers organized. So, we have close to about 450,000 workers who are not unionized in this country. A large percentage of the workforce is not unionized in this country. The Government should have taken steps, if they were serious about the working class being organized in this country, to make it easier for workers to join trade unions in this country. To join a trade union and to become a bargaining unit you must



have 50 per cent and/or more of the membership. Why can workers not—if you have 25 per cent of the membership in a workplace—organize themselves into a trade union to gain protection?

I would have thought that the Government would have been interested in addressing matters like these, but it does not appear that the Government has any interest in the working class of this country. If the Government of this country was interested in workers—the Workmen's Compensation Act that we brought in 2001 was repealed. This same Workmen's Compensation Act that is forming the basis of the legislation that is before us today. Why did the Government not bring this Bill or make changes to it in order to uplift the working people in our country? Why?

In this particular Bill called the Employment Injury and Disability Benefits Bill, we outlined some 38 industrial diseases.

**Sen. Dr. Saith:** Standing Order 35(1). I am at a bit of a disadvantage, because I do not have a copy of the Bill that the hon. Senator is debating.

**Mr. President:** Well, I was about to rise. Senator, you are obviously struggling to make your hour, and you are beginning to repeat yourself by making the same point over and over again. The document that you are holding that was drafted by a former government really has no place in this debate. I would ask you to press on and deal with the matter before us.

**4.15 p.m.**

**Sen. W. Mark:** I want to assure you that this Senator will never struggle to make a contribution. [*Laughter*] [*Desk thumping*] I keep saying that this Senator will speak and will speak with authority on matters before us. You will never get me struggling to make a contribution. I will never struggle. I know that my colleague on the other side might have some difficulty in taking in my contribution, so he would rise as he did, but never, never, never would you get Wade Mark struggling to make a contribution. In fact, I could speak if you suspend the Standing Orders.

**Sen. Dr. Saith:** Sir, will you gave way? Let me say, Mr. President, that I have no doubt that the Senator has made his mark and we recognize that, but I would like to get back to the Bill.

**Sen. W. Mark:** Thank you very much, Sen. Dr. Saith. It seems to me that when we are debating in this Parliament, some of my colleagues like to be straightjacketed. They do not understand the flourish in seeking to keep the inter-

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connective nature of what we are talking about. Then you have newcomers, "Johnny come lately", who do not understand the Standing Orders, talking about relevance. The first person who should never talk about Standing Orders is the Attorney General.

**Sen. Annisette-George:** Why?

**Sen. W. Mark:** Because you do not understand the Standing Orders. Of course, you almost misled the President yesterday. [*Laughter*] If you had known your Standing Orders, you think you would not advise the President? You would have done that. So, you do not know them. Let me get back to my Bill without any further interruptions, please.

As far as we are concerned, it is our view that this particular measure that is before this honourable Senate—as I said earlier, we have to support it; we were pointing out some of the limitations in the measure that is before us. We are seeing instead of the employer establishing a fund, we see in clause 3(2), where any award will come directly from the Consolidated Fund.

Again, if we had taken up the ideas that we had advanced in our Bill, we would have had a compensation fund and it would have been properly funded by all of the employers in this country, including the Government of the Republic of Trinidad and Tobago. What we have here is a provision that says, "that any award of compensation under this Act shall be a charge on the Consolidated Fund." That is what it is, Sir, and that is what we will have to go with.

**Hon. Senator:** Struggling, struggling.

**Sen. W. Mark:** Are you from Arima? Okay, you are a good man from Arima. Do not let me come to Arima, please. [*Crosstalk*] [*Interruption*] Yes, yes. In clause 12, we see that:

"The office of the Committee shall be situated in Port-of-Spain and the address shall be published in the *Gazette* and in one daily newspaper in circulation..."

I want to advise the Government that the *Gazette* is not reached or people do not really read the *Gazette* in this country. I think that we have to become very serious when we want to inform the population of this country of the existence of this particular office. Therefore, I would like to propose that the Government consider, it may not be possible here and now, because we understand—Was this part of the agreement, hon. Minister, that the office of the committee shall be

situated in Port of Spain and the address shall be published in the *Gazette* and in one daily newspaper in circulation in Trinidad and Tobago? Was that part of the agreement?

**Hon. Le Gendre:** To the extent that the Bill before you relies heavily on the previous Bill to which you referred, then this would have been the exact proposal of TTUTA.

**Sen. W. Mark:** I do not have a copy. You see, we are at a disadvantage; I want to really tell the President. We do not have a copy of the agreement that was signed between TTUTA and the CPO. If we had a copy of the agreement we would then be able to determine which clauses we can alter and which clauses we cannot alter, but you are telling us that all these provisions here constitute an agreement. Could you get a copy of the Memorandum of Agreement and have it circulated so we would know what we are dealing with, because right now we are shooting in the dark. I would like to make changes; I would like to submit amendments to some provisions in this legislation, but I do not know what is the agreement.

We are talking about an agreement involving TTUTA and the CPO and we do not have—*[Interruption]* No, no, no. I am demanding, through the hon. President, that it is the responsibility of the Minister to have circulated in this Parliament the Memorandum of Agreement between TTUTA and the CPO. If we are going to be implementing an agreement, it is incumbent upon the Minister to make such agreement available to us, so we will know what the contents of the agreement is. You just cannot come and tell us—

**Mr. President:** He made it. The speaking time of the hon. Senator has expired. *[Laughter]*

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

*Question put and agreed to. [Laughter] [Crosstalk]*

**Sen. W. Mark:** Thank you. I want to thank the noes; you all were defeated. You know it is amazing that we are dealing with some serious matters here and you have this regime that continues to show utter contempt for the working class of this country. We are dealing with an agreement and we do not have a copy of the agreement before us. I am asking for a copy of the agreement to be available so that we on this side will be able to understand the exact contents of the agreement. Suppose I want to—

**Hon. Le Gendre:** Mr. President, just for the information of the hon. Senator. In my presentation, I did say that this Bill came out of the Lower House and of course,

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there was a consideration that even the current TTUTA, who was not part of the negotiation, might not have been absolutely comfortable with all of the provisions.

We had feedback from TTUTA and I wish to reiterate that to this moment TTUTA has not expressed any dissatisfaction whatsoever with the current terms of this Bill. To the extent that there are certain bells and whistles that one would like to attach to this Bill, even at this time, TTUTA appreciates that that would have resulted or necessitated a complete return to the negotiation table, which clearly they were not prepared to do at the time. As far as we are aware, they are comfortable with the provisions which have been put into the Bill, which is before you at this time.

Thank you. [*Desk thumping*]

**Sen. W. Mark:** Hon. Minister, with the greatest of respect, you have not really provided me with any comfort. [*Crosstalk*] I have asked, through the hon. President, if you, as the Minister of Education, piloting this Bill, can make available to the Senate, a copy of the Memorandum of Agreement, May 24, 2005.

For instance, I would like in clause 18, to make an amendment; the Minister shall within three months of the receipt of the report, lay it in Parliament. Is that part of the agreement? I am arguing and I would like to submit that within one month of you receiving that report, it be tabled in Parliament and I am going to move such an amendment. You must bring the agreement. I demand that you bring the agreement! [*Laughter*] [*Crosstalk*] I demand that. I demand that.

So, Mr. President, if this Government believes that because it is a simple majority they can ride roughshod over the Opposition and they can do whatever they will and whatever they want, that is their business. We have a duty and a responsibility to execute in this Parliament and I want to give all and sundry the assurance that we shall never budge, flinch or surrender. We will continue to do our duty regardless of what you say or what you do on that side.

I want to serve notice; I intend to circulate several amendments for the consideration of the Minister. I want the Minister, first of all, to reduce the period of time from three months to one month. That is a proposed amendment I would like her to consider. While, as I said, we would not want in any way to oppose this measure that is before this honourable Parliament, I do not believe that Government should come before us—and particularly a Minister of Education, that should be setting an example to the young ones in this nation—without evidence; without an agreement being attached to this Bill and tell us that we must take your word.

I am not saying that I do not believe you; I believe it is incumbent upon you; it is your duty and responsibility to have respect for this Senate and you show respect by providing us with the relevant and necessary information. Information is a currency in any democracy.

**Hon. Le Gendre:** Could you give way?

**Sen. W. Mark:** What is it, a point of order?

**Hon. Le Gendre:** To give information. Mr. President, I hope that all Senators understood that we were here to debate this Bill today and the implications and by virtue of knowing what we were here to deal with, if there was need for a copy of the agreement, we would have been happy to provide it, but I am really not here to do Sen. Mark's homework for him. [*Desk thumping*]

**Sen. W. Mark:** Typical PNM arrogance. [*Laughter*] Typical PNM disrespect and contempt. Mr. President, just in winding up, because I do not want to go beyond 4.30 p.m. It is normal practice; when you have an agreement and we are going to sign off on this agreement through legislation, you attach the agreement to the legislation. That is a normal practice. I am not begging you for anything. So, when you say that you are doing my homework, hon. Minister, you are insulting the intelligence of the people.

**Sen. Gronlund-Nunez:** Mr. President, 35(1). Are we here to discuss this Bill or are we here to discuss—

**Sen. W. Mark:** Why are you standing while I am standing? Why are you doing that?

**Mr. President:** Senator, the Minister is citing a Standing Order.

**Sen. W. Mark:** Oh, she is.

**Mr. President:** Yes.

**Sen. Gronlund-Nunez:** Mr. President, 35(1), the relevance, because I do believe we are here to discuss a Bill, not Sen. Mark's homework or request for additional information, which of course, as stated by the Minister, he could have asked for before this time.

**4.30 p.m.**

**Sen. W. Mark:** I did not know you are the campaign manager for the Prime Minister? [*Crosstalk*]

**Mr. President:** Senator, it is now 4.30 p.m. would you like to wind up or would you like to come back and continue? I will give you two minutes.

**Hon. Senator:** Time run out on you. [*Laughter*]

**Sen. W. Mark:** Normally I do not take instructions but on this occasion I shall. [*Laughter*] I do not ever want to clash with my President. I like my President, but I do not take instructions, please, Sir. [*Laughter*]

Anyway, Mr. President, I would just like to say in closing that we would like to support this Bill. We have made a request for a copy of the Memorandum of Agreement, we have served notice on the hon. Minister that we would like to alter the time frame when the report must be submitted; we will circulate an amendment to that effect and we would hope that in the spirit of Emancipation 2008 and in the spirit of goodwill that we have demonstrated over the last 24 to 36 hours, I hope that the Minister will treat our request with the seriousness that it deserves, and therefore you would make available to all of our colleagues a copy of the Memorandum of Agreement between TTUTA—even if you want to make three copies available we can circulate it so that everyone will be able to know what they are dealing with.

Mr. President, I thank you very much.

**Mr. President:** Very well, we will take the tea break at this point. Hon. Senators, we will resume at 5 o'clock. This sitting is now suspended until 5 o'clock.

**4.32 p.m.:** *Sitting suspended.*

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

[MR. VICE PRESIDENT *in the Chair*]

**Sen. Corinne Baptiste-Mc Knight:** I thank you, Mr. Vice-President. Without prejudice to the fact that I support the intent of this Bill, there are a few questions which I should like to have some clarification on. It really is a pity that I did not have the time to study the memorandum itself carefully because it should have been an integral part of my preparation for this Bill. But nowhere in the documentation on the Bill did it make reference to the fact that the purpose of the Bill was to provide legislation to give effect to the memorandum, and I have only just had the opportunity to have a look at the memorandum itself.

I find that whereas the core clauses of the memorandum are included in the Bill, there are a couple of subtleties here that tend to make me think that the Bill goes a little further than what the basic agreement in the memorandum is. For example in clause 13(2) it says:

“Where it is proved that a teacher suffered personal injury...”

Now on whom is the burden of proof? Would it help, say, someone like me, and I imagine most teachers who just speak plain English, it might help if you say, “Where it is established that”. I do not know whether that would make a difference, but “Where it is proved”, makes me wonder immediately on whom is the burden of proof.

Now, clause 14(2)(b), I note that among the things that have to be taken into account would be opinion as opposed to evidence. Now, clause 14(2)(b), page 6, I am wondering of what does “opinion” consist and here I am definitely at a disadvantage not being a legal person. To what extent is “opinion” going to prejudice whatever the poor teacher in jeopardy might have problems with?

Now, at clause 17, this I really have a problem with. It says:

“In awarding compensation for injury or death...the Committee shall take into account any damages awarded...to a teacher...”

Now if this happens to be as a result, say, of an insurance that the teachers might have paid for, is it fair for the committee to take this award into consideration in deciding what compensation should be paid? I do not like this reference to “any damages awarded”. I think this limits what the committee can award and it almost makes a nonsense of the rest of the agreement.

Elsewhere in Schedule II(c) it says:

“All necessary injury leave as may be certified by a medical practitioner approved by the Committee”

Why does it have to be approved by the committee? The committee does not approve or register medical personnel. If the person is registered with the medical board to practise here that should be enough for the committee. I really do not see the need for that. I would like to suggest that this be changed and that it just be a “medical practitioner registered with the Medical Board of Trinidad and Tobago”.

In the interest of time and given the fact that I was at a slight disadvantage, I rest my case.

Thank you, Mr. Vice-President.

**Sen. Cindy Devika Sharma:** Thank you, Mr. Vice-President. Again, today is indeed a significant day for teachers and persons working in the education sector, because we have before us today two Bills that are very important to the work of teachers and their provision of compensation either in the form of pension or in this case, in case of any damage or injury sustained on the workplace or during work or death, if that occurred.

In essence, like Sen. Baptiste-Mc Knight, I also support the intent of the Bill and clearly as a member of the union as well I am in agreement with whatever agreement was worked out between TTUTA and the Ministry of Education. I am certain that in such discussions a lot of the issues that would have been very important would have been considered by both parties and some agreement, of course, would have necessitated certain provisions that I am sure this document here today would reflect.

Notwithstanding that, our task here is not the task of a union. Our task is a bit different and, of course, each and every individual here will also bring their own experiences into play to put their own interpretation on what this Bill will provide for teachers who in the future will wish to seek compensation for any possible harmful experience they would have had while on the job, be it within the physical confines of the school compound—however, it may be defined in terms of boundaries of the school—as well as if they are on official school business. I am assuming that when it is authorized business, it does not mean that you have to get the permission of the school district officer. Your principal could perhaps send you to do something and that of course would be the principal giving approval by the Ministry of Education.

So, I am certain that would be considered because teachers do spend excessive amounts of time, not in the classroom but outside of the classroom. That is an unfortunate truth as I know particularly during events such as graduation where you actually have to take part, 10 o'clock in the night, 12 o'clock making sure that everything goes according to plan and you get caught up in the nitty-gritty. You get caught up doing the work. So many times you have to climb a ladder, for example, to fix decorations. So, I am assuming if a teacher falls in that case during something like that, will the teachers be allowed to seek compensation? So in cases like that if a teacher can prove that in the course of duty that they should be awarded compensation, I am of course all the more eager to see this legislation come on board.



**5.10 p.m.**

Despite that, TTUTA did express that via one of their officers, Mr. Karan Mahabirsingh, who was the former Industrial Relations Officer. He has since retired. He wrote an article in TTUTA, No. 104, March 2008. I stress March 2008. As the Industrial Relations Officer, I am certain he would have had some input into the discussions that went on between TTUTA and the Ministry of Education. In this article he states of course, that one of the main premises of TTUTA is based upon the safety as well as security of all in schools. This is an even greater concern today because we find that conditions are not what we would like them to be and these are things that cannot be controlled or made perfect to 100 per cent, but we want to reach the target/goal of having the least possible harmful conditions for teachers, and of course, students in the school, and all persons on the compound itself.

An agreement was made between the Government, the Ministry of Education and TTUTA in 2005. In this article he noted that there was a need for legislation to come forward, which is what we see here today, to give effect to that memorandum of agreement. He said that TTUTA was not consulted in the preparation of the draft legislation, nor were they allowed sight of it. I will read it as he wrote it:

"TTUTA was not consulted in the preparation of the draft legislation nor were we allowed sight of it before its submission to Parliament."

Why I feel this is significant, several years ago that group, who was leading TTUTA at that time, would have been engaged in consultations with you. So, the TTUTA of today, the newly elected officers might not have had that close experience that those officers would have had. It is very likely that they might have discovered new ideas or possibly something that could be made up of a different interpretation. I suspect that in all the Ministry's and Government's efforts to ensure that stakeholders are always involved in consultations along the way—the Minister is indicating to me that it was a signed agreement. I am just saying that stakeholders, especially when it concerns something as very critical as compensation for injury, something that they have wanted for so very long, they would like to feel that they are involved in everything and they want to feel that closeness with you, because that is what you want to have with them as well. What do they say? You want to have your friends close, but your enemies even

closer. You want to have these people as close as possible at all times. He is just expressing that desire for consultation and he did say that they had some concerns here. So when they obtained a draft of the legislation and did an initial review, several omissions were noted. I will make reference to these in my contribution.

One in particular is that there is no reference to occupational disease arising from exposure to an unhealthy environment, whether it is the result of poor lighting, heat, dust, noise, chemicals or other hazardous materials. This is cited in the article by Mr. Mahabirsingh and it leads me to give a possible scenario. It is only injury or death, disablement for as well that someone can be compensated for—a teacher.

If a person might have been exposed to a harmful chemical, whether it be in the science laboratory of the schools, whether it be from poisonous substances, and we know that there have been cases of poisonous substances in water tanks, through foul play perhaps, will that teacher be able to access the damages? Also, what about long-term disease that could develop or could arise from exposure to harmful substances? We have the prior experience of asbestos to use as an example. Someone can probably say that okay, within these four years he or she did not develop a particular disease arising out of exposure to a harmful chemical, but it happened later on, perhaps in the form of cancer, or some other kind of disease, will that really be considered? I think this is one of the concerns that they did have.

In addition, one of the concerns he expressed was how the compensation committee itself is going to function. Now again, Senators, before we made reference to how the claim process is going to take place or the guidelines for the claim process, where a teacher basically has to come before the board with all the evidence and put forward his or her case. In the event of a decision not being accepted by the teacher who is seeking compensation, the next recourse is to go to the Court of Appeal. What TTUTA is suggesting here, is that this is an expensive process, out of the reach of most teachers and there is some difference in terms of the legal form and procedure that the Court of Appeal will use in comparison to the compensation committee. What they are saying is that the at Court of Appeal there are very formal guidelines in terms of how someone can bring forward a case which will give even greater weight to what takes place there in a legal way, as opposed to what takes place with the compensation committee.

From their perspective, it seems to be inherently contradictory that this committee is acting in a way that is informed by the guidelines that it sets for itself, as opposed to guidelines which exist in the Court of Appeal which are very

clear and have very specific legal format and legal procedure to follow. So, decisions that are made there probably might be viewed by the teacher or that person seeking compensation to have greater weight than the compensation committee. There is a possibility that many teachers feel a sense of grievance with the committee's decision to either not award compensation or to award a settlement that they are not happy with, they would probably seek redress more and more in the Court of Appeal. I am suggesting that they might come to view over time, perhaps, that the compensation committee might not be serving their needs. Of course, it has to do with how the compensation committee will act and whether or not it will act in a way that will show everyone it is being fair, and it is really and truly seeking to address the issues at heart.

Sen. Mark did make reference to what happened with the police service and those persons seeking compensation, and the very, very small number of persons who were actually awarded compensation in comparison to the greater number who sought compensation and were unable to get it. We have to ensure that teachers will feel comfortable enough to seek compensation from the committee itself, and feel satisfied that, yes, they are going to get a fair hearing and they will very likely achieve a positive result arising out of whatever injury they might have sustained. That is one concern that appears to be overriding with TTUTA and with me as well.

Mr. Vice-President, in closing, while we must always seek to have legislation that is important to fulfilling the aims of creating better working conditions for all workers, teachers in this case, in bringing forward the legislation we need to be very careful in the sense that we need to ensure that the legislation will be strong enough to withstand the pressures, et cetera, that it will go through in its enactment and implementation. We want to make certain that what is designed will be appropriate and fair to all, and it should not be an unfinished product. If there is need to make any further amendments, hopefully, we would be able to do so at the end of the day, today.

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

**Sen. Gail Merhair:** Mr. Vice-President, I start my contribution by saying, that a good teacher is like a candle, it consumes itself to light the way for others. And with that, I rise in support of a Bill to provide for the payment of compensation in respect of members of the teaching service who suffer injury or die in circumstances arising out of and in the course of employment with the State. I would like to put on record that we should all be proud of our present and retired teachers, who have given this country yeoman service in educating the youth and even some of us who today, sit in this honourable Senate.

According to Jack Brazen, "Teaching is not a lost art, but the regard for it is a lost tradition". I am really in high praises for the Government and I commend them today, for bringing the Pensions (Amdt.) Bill we did this morning, and the Teaching Service (Compensation) Bill that we are now debating because I think it is a positive step in understanding and appreciating the work that our teachers do today. I think this Bill is necessary and important in our society today, because of the increasing violence taking place in schools. On a daily basis teachers are faced not only with aggressive behaviour by students, but also life-threatening behaviour by certain parents. In some instances, where teachers might be forced to intervene in life-threatening situations, they do not do so because of the fear of what might take place in the event that they choose to discipline a child.

So, in some instances, teachers might even choose to look a different way or turn a blind eye because they do not want to administer disciplinary measures against students, as they fear for their lives. We have seen this happening in schools. For example, in the Cunupia High School, and an incident in the Princes Town Junior Secondary School last year, where the entire shift of students got into a mass brawl on the school compound and because of that, the staff could not control the situation and the school had to be closed.

I also think that this is necessary because of the fact that there are a number of dilapidated schools in Trinidad and Tobago and this has caused much concern. In many instances teachers have been injured.

I wish to draw attention to an article in the *Trinidad Guardian*, dated Tuesday, September 04, 2007, at the Palo Seco Government Primary School which was deemed unsafe four years ago because the 77-year-old building had to be shut down.

**5.25 p.m.**

In one part of the article, the PTA President, Mr. Samuel, indicated that because of the dilapidated condition of the school, a cleaner actually fell through the floor. So in these instances, this piece of legislation is necessary to compensate persons who work in our school environment, in the event that something like this happens.

I would like clarification from the hon. Minister of Education on the following points: Why must the committee, as outlined in the Bill, be mandated in Port of Spain? I know the hon. Minister did, in fact, answer this before, but when you look at the amount of traffic congestion coming into Port of Spain, I know it is central in terms of how we think, but with the number of primary and secondary

schools located throughout Trinidad and Tobago, I am just concerned that bringing persons who are injured and ill into Port of Spain might not be the right thing. If this is what was given in your agreement by the Trinidad and Tobago Unified Teachers' Association (TTUTA), I would be guided accordingly.

Mr. President, clause 14(2)(a) makes reference to the Compensation Committee not being bound by the Evidence Act. I am wondering if there should not be some sort of threshold for proof. How do we find out what really happened, if the Evidence Act is not applied here? I do not know if there are other ways in the Bill, which, of course, the committee would be deemed to find out, if there are regulations to follow.

The third point is that there is no mention of the time period. After a decision is taken, what is going to happen; would somebody have to wait a year for a judgment, two years for a judgment, 10 years, 15 years for compensation? I think that this is important, because if someone is injured and is seeking compensation by this committee, then there should be a time frame in which compensation is provided. He should not have to be allowed to wait a lengthy period for this compensation that we are, in fact, giving by this Bill.

My final point is in clause 4(1)(b) which reads:

“(b) a person entitled under any written law to make a claim on behalf of a teacher who is so incapacitated by reason of personal injury...”

I am suggesting that the words "or other circumstances" be placed here, and then:

"that he is unable to make a claim himself;"

I think that "personal injury" is too one-sided; it is too dead set in its ways. What would happen if the injury arises out of other circumstances besides personal?

Mr. Vice-President, I thank you for allowing me to make this contribution. I do, in fact, support this piece of legislation.

**Sen. Linus Rogers:** Mr. Vice-President, I rise to join this debate to lend my support to this Bill.

As I listened to the earlier contributions, I had to ask myself a couple of questions, because I clearly heard the Minister of Education, in presenting this Bill, indicate that it was based upon a memorandum of understanding (MOU), an agreement arrived at. As I listened to a number of the contributions, I heard Senators on the other side, at both levels, basically asking, in some respect, to have changes made to what I interpret to be the MOU. I asked myself, given that I

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have learned friends who are in the industrial relations field, where has that learning gone? If you negotiate something, and you are giving life to it, certainly you cannot go and unilaterally change the agreement. [*Interruption*]

**Sen. Narace:** Unless it has a morality of its own. [*Laughter*]

**Sen. L. Rogers:** You cannot change it unilaterally, because negotiation involves two parties. While I do recognize that within the teaching fraternity in TTUTA one may have had a change of the guards, certainly on this side I would like to strongly suggest that we honour the agreement. We would not have subscribed to having agreed to something, unilaterally kick it out and do something else.

If I may, however, look at some of the contributions, there was a lot of focus around the issue of claims and whether the manner in which claims are being dealt with would be repressive or not. I would just share some of what happens, because this arrangement is not really unique in that many organizations have arrangements whereby workers are compensated, after getting into accidents. In some organizations that I am aware of, there exist committees that would deal with accidents which occur in the workplace.

I say that keeping in mind the composition of the committee, as stated on page 8 of the Bill, where under the committee you have the chairman being a lawyer with a certain number of years of experience in the legal profession; but I want to point to the fact that it also includes a medical practitioner with, at least, seven years' experience; a medical practitioner with experience in the field of occupational safety and health; as well as a person with, at least, three years' experience in the business of accidents and health claims.

I suggest to you that certainly in some of the places I am familiar with, when you have accidents in the workplace, invariably it is only the person who gets injured being on the scene at the time. We have had to rely upon the experience of persons who have had long experience in the field, to draw upon all the information available, information from the injured party as well as other dynamics within the workplace, in order to make a determination. So from my perspective, it is not unique to have a situation where the committee, not only gets information—if I may just find that section—

[MR. PRESIDENT *in the Chair*]

I believe it is clause 14(2)(a) and (b), where the committee would basically pull upon information, not only as presented by the parties, but other information, in order to make a determination and come to a decision as to exactly what is what.

I suggest to you that it is not being repressive. I heard one person on the other side indicate that clause 14(2)(a) was very repressive; but it is, basically, that the committee is doing what I suggest is good industrial practice, pulling information, not only from one source, but from all available sources.

Sen. Sharma in her contribution raised an issue. She gave the example of someone possibly falling off a ladder or so. I would like to point Members of this Senate to clause 3, where it says:

"3(1) Where a teacher—

(a) suffers personal injury...

in circumstances arising out of and in the course of his employment with the State, the State shall be liable to pay compensation in accordance with this Act."

It says that once you are operating in the sphere of your employment, regardless of what the activity might be, then it should be considered arising out of and in the course of employment with the State and, as such, should be covered in accordance with clause 3. Even with the activities that one might be involved in as a teacher, one could say that it is only restricted to teaching, but given the sphere of things that one would typically get involved in, certainly I suggest that such activities should be covered under that clause.

Mr. President, invariably and in my experience, I have seen a number of workers injured in the course of duty. Invariably one has to spend a lot of time deciphering how the injury took place and to what extent it was caused by either negligence on the part of the worker or as a result of the organization not having things in place, that, by its very nature, would have caused an accident. It just may have happened that the individual who had been injured happened to be, in some respects, in the wrong place at the wrong time.

What I would want to do, if I may, Mr. President, is certainly to commend the Minister of Education for bringing a Bill that seeks to give compensation to workers in the workplace, in this case teachers. I have a sister who was a teacher who rose to the rank of principal. As I recall some of the comments I heard from her over the years, where persons would have gotten some form of injury, some small, some large, and there was no recourse for them. Certainly, what this is doing, while it may not, as has been suggested, go as far as some of the other side would have liked it to go, is recognizing that there is a gap, it is beginning to address this gap in a substantial way.

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In closing, I simply take the opportunity to remind the Members on the other side that when we sit and negotiate, and we reach agreements, we must honour those agreements through to completion, otherwise the whole purpose of negotiating has no meaning.

I thank you.

**Sen. Dr. Adesh Nanan:** Mr. President, I rise to make a contribution on this Bill.

The speaker before me made reference to clause 3. Clause 3 talks about where a teacher suffers personal injury; but if a teacher climbs up a ladder in a graduation, falls and damages his or her hip, that is not covered. This personal injury is defined in this Bill as "permanent, partial disablement" or "permanent total disablement". That particular reference goes now to Schedule II. I want to give an idea of the Second Schedule in the Workmen's Compensation Act, because that is important. It was pointed out by Sen. Mark in terms of the Second Schedule and the list of injuries deemed to result in permanent disablement; that is, the loss of two limbs, percentage of incapacity, 100: loss of both hands or all fingers and both thumbs; total loss of sight; total paralysis; injuries resulting in being bedridden permanently; any other injury causing permanent total disablement; loss of remaining eye by one-eyed workman; loss of remaining arm by one-armed workman, and loss of remaining leg by one-legged workman.

If you look at this particular Workmen's Compensation Schedule dated 1960, as Sen. Mark said, this is what it is being premised upon in terms of paying this particular compensation.

We have to consider it seriously in terms of this particular Bill. It will address a miniscule number of teachers in terms of compensation. We have not heard from the Minister how many teachers have applied for injury leave according to this particular Bill. *[Interruption]* If you could provide that information, I would be happy to know that.

**Hon. Le Gendre:** For the information of the Senator, in 2007 there were 10 persons, and over the last three years 25.

**Sen. Dr. A. Nanan:** Thank you, Minister, for providing the information.

The Minister pointed out that this would make a significant dent in terms of the 14,000 teachers. We on this side are saying no, because there are severe restrictions under Workmen's Compensation. I am sure that the Minister is aware of the severe restrictions under the Workmen's Compensation Schedule, because for other injuries it is not covered. We heard about illnesses. There are certain



areas, for example, if a teacher is out for three or six months because of, probably, a broken hip. You have to face facts. Why is this particular Bill being brought forward today with such speed?

There is also a situation in the public service. I recall, as a former minister, being in the environment having to sign a lot of Cabinet notes coming forward, because this is an ad hoc arrangement. I am sure the Minister is aware in her Ministry of the ad hoc arrangement in terms of ex gratia payment. From time to time, as I am sure the former Minister is aware, somebody would come with a claim and the Attorney General would make a ruling and say that the State was liable, a note would be prepared and sent for Cabinet approval. That is the haphazard approach to this particular issue.

We are also asking: Why are you creating so many boards, so many committees? The protective services has a committee, now we have the Teachers' Compensation Committee; you might have the public service compensation committee. Why not have one employment injury compensation board to simplify matters? What we are trying to do is to simplify the process for a teacher to get redress in terms of compensations.

We have to face facts, as Sen. Merhair spoke about the situation in our schools in terms of war zones and gang warfare. When you look at the traumatic situation with respect to teachers and that particular environment with which we are faced, the Government cannot handle it. There is a mirror image of what is happening in our society that is happening in our schools, that is why I made reference to the miniscule number of teachers.

In the particular situation in our schools where you have the confrontational approach that teachers are being faced with now, you could have other injuries that are not being covered. That is something the Government should look at if it really wants to cover the teachers comprehensively. I am sure that you are going to say that they probably have insurance; but not everybody could afford insurance for partial injury. We are making that suggestion. I know that the Minister is not going to make any changes, but these are just suggestions that we are putting forward to assist with representation.

There was another issue that was raised quite adequately by Sen. Sharma, but I just want to go a little further. With respect to the Bill and redress, in terms of the Court of Appeal approach, there was a suggestion that they should go to the Industrial Court first. If it cannot be resolved there, then go to the Court of Appeal. I do not know if that can be considered to make it simple.

**5.45 p.m.**

There is another part of the Bill to which I want to make reference. It deals with clause 4(3). It is the time during which a claim may be made. We are of the view that the time frame of one year is too short. If you are following the Protective Services (Compensation) Act, we are putting forward two years as the time frame. You have to know the full extent of the injury. You may not know that in a period of one year. I do not think that we want to put any constraints on any person who wants to make a claim because this should be a facilitatory mechanism for the teacher who suffers injury.

We have to look at your track record in terms of performance. If you look at the Criminal Injuries Compensation Act and victims of crime, the Government was very tardy in setting up the board. Eventually the board was set up, but not a cent has been paid to date with respect to victims of crime. Anyone can correct me if I am wrong. When we look at the budgetary allocations, we would see that this particular Bill talks about an award of compensation. Clause 3(2) states:

“Any award of compensation under this Act shall be a charge on the Consolidated Fund.”

There has been no allocation in the estimates for this particular area. There may be allocations with respect to ex gratia payments but there is nothing concrete with respect to this particular area of compensation.

Again, we heard about the burden of proof. The part that I want to refer to is clause 13(4) which says:

“The Committee shall, in determining the quantum of compensation, take into account any payment gratuitously made to a teacher or a claimant by the State in respect of the same personal injury or death.”

We find this to be a little oppressive. You are saying that if the person already had a degree of ex gratia payment that has to be factored into the compensation. I think that when we are dealing with injury we should not be so oppressive.

I made reference to a particular situation. I remember that I had a situation in my ministry where a worker's back was damaged by a chair. The Attorney General had ruled that the State was not liable. Within some kind of conciliatory approach, we still paid some ex gratia payment, although the State was not liable. The person was incapacitated and could not prove that it happened within the confines of the Ministry of Education.

If it happens within the time frame and the person goes to this committee, you will take that into consideration and give less money. We are dealing with people who are injured and cannot function within the workplace. With the inflation that is out of control, how will these people make it in today's society?

The other area I make reference to is the matter of teachers attending classes outside the school compound. There is no reference in this Bill about if they will be compensated if there is that kind of injury. I do not know if classes outside the environment of the school are being considered. If it is, fine with that.

The other area of importance of this Bill is clause 14(2)(a) which states:

“in the hearing and determination of any matter before it, act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the Evidence Act;”

We want to know why that was included here. Minister, you can give some clarification when you are winding up.

There is also another point with respect to the compensation on Schedule II for total permanent, total disablement or permanent partial disablement. I am confused by such entitlement as is provided under the relevant Act governing the provision of superannuation benefits to teachers or any other relevant legislation. You can give some clarification to that part of the Schedule.

I see that the Minister may by order amend the Schedule to increase the benefits listed therein. Is that outside the Workmen's Compensation Act? I want to get some clarification there because if you are amending the Schedule to increase the benefits, will it be different from the Workmen's Compensation Act or will you have to amend it? How can the Minister amend the Schedule to increase the benefits? We need to get some clarification on that. That Schedule is tied to the Workmen Compensation's Act. I do not know if that will be amended further.

With those few words, I thank you.

**The Minister of Education (Hon Esther Le Gendre):** It is a good thing I was a girl guide. Mr. President, I rise to wind up the debate on the Bill to provide compensation for teachers in the event of injury or death, as a result of injuries sustained during the course of employment.

**5.55 p.m.**

Mr. President, during the course of the contributions made by the other two sides of the triangle, certain questions were raised which I would like to answer, to the best of my ability. To frame the discussion we are having, I must go back to

the point that this Bill gives life to an agreement and that agreement can only be varied by the parties to the agreement. It can be varied by either party, with the agreement of the other side. *[Interruption]*

**Sen. Mark:** The Bill varies.

**Hon. E. Le Gendre:** Sen. Mark is no doubt bolstered by his gift of a copy of the agreement. We would be happy to look again at some of the points you have made, in respect of the few areas which have not been an integral part of the agreement. For instance, you might be looking at the section which refers to the location of the committee being in Port of Spain. That, as you are aware, is not part of the agreement, but it is a provision which has been copied from the Police Service Act, of course, on which this is based.

We have been looking at a section which deals with the burden of proof. While some of the Senators have expressed a bit of discomfort with this particular provision, I am advised that this is a normal provision of such insurance-related arrangements. As a matter of fact, it is normal in the course of insurance to be provided with a form. One would make a claim on that form and support the claim with the report of a duly qualified medical doctor, especially when it comes to the question of the burden of proof being on the applicant, in this case the teacher. If you link this to the section which deals with the rules of evidence, this particular Bill releases the committee from being bound by the rules of evidence. This is also a benefit to the teacher.

As my colleague on the other end of this bench said, sometimes an accident might occur and there is no one around, so there is no witness and the burden of proof rests on the teacher and, of course, in consultation, with a medical practitioner who would be able to certify that the particular kind of injury could only have happened in the circumstance that person has described. So it works both ways. I do not think it is necessarily to the detriment of the teacher.

As I said earlier on, while the numbers are small, it certainly points to a very good record of health and safety in the teaching service, because in all of 2007 there were 10 cases of injury on the job reported and over the three years prior to that, just 25. One accident is too many. Certainly, in the energy sector that I called home for a while, zero tolerance was the motto.

There has also been some concerns expressed that, perhaps, teachers who have injuries that are not covered by this particular Bill are hard done by. If you are wondering how teachers made out prior to this, there is currently in existence an insurance policy that is maintained to cover all claims arising out of injury.

The absence of a note in this year's budget, relating to any amount set aside for injury, is simple. There is no plot. If there is no agreement, there is no valid basis for including that line in the budget at this time, but do rest assured that as soon as this agreement is signed, then the Teaching Service will have the necessary authority. When the Bill is passed, that would give the necessary authority to inclusion. We hope when we come back at the half year for an increased allocation, you would be supportive in that respect. We look forward to that.

With respect to the question of injury on the job, all the provisions here are quite normal. There is no reason to believe that teachers are, again, hard done by, if they only had this particular Bill. You are all aware that the National Insurance Board provides quite a similar benefit for employment injury. As a matter of fact, it is the only benefit that is paid to a working person, even as they receive a salary. That is how generous the National Insurance Board is.

In addition to the provisions that one can claim under the proposed Bill, the Education Act, the Teachers' Pensions Act and other relevant legislation also provide for teachers. As the Bill says:

“Nothing in this Act shall be construed in a manner which would disentitle or disqualify a teacher from making a claim in respect of personal injury or death, in accordance with—”

either the National Insurance Act, the Education Act or any other legislation that may confer benefits relating to personal injury or death. There are additional benefits.

There was one question where one person had a concern: What if this person had private insurance or other entitlements? It is not affected by this particular Bill except that, as usual, one guiding principle of insurance is that people ought not to profit from their injuries. While there is every intent to pay and to reimburse justly, the intent is not to cash in if you broke your leg, but to ensure that the person who is injured or their beneficiaries receive all just compensation for their suffering.

Clause 17 of the Bill states:

“In awarding compensation for injury or death under this Act, the Committee shall take into account any damages awarded by the State to a teacher or his beneficiary...”

I think this was—*[Interruption]*

**Sen. Baptiste-Mc Knight:** It does not say that.

**Hon. E. Le Gendre:** I am reading from the Bill.

**Sen. Baptiste-Mc Knight:** It does not say “by the State”.

**Hon. E. Le Gendre:** I am sorry, this one has it in bold. This is page 12. Is that the one you are looking at? Perhaps, you are not looking at the amended copy. My apologies; if it were in my power to hand this one over I would so do. I do apologize on behalf of whomsoever did not pass this copy to you or did not circulate it. Can I read this out again if it would help?

**Mr. President:** Minister, please allow me. On behalf of the Parliament, I do apologize to any Senator who did not get an amended version. It is the responsibility of the Parliament and the staff here to get you any amended copies, not that of the Government. It is done as part of the Parliament and I do apologize to you for that. Hon. Minister, thank you.

**Hon. E. Le Gendre:** Through you, I would like to read clause 17 of the Bill, which relates to compensation otherwise awarded:

“In awarding compensation for injury or death under this Act, the Committee shall take into account any damages awarded by the State to a teacher or his beneficiary, in respect of the same injury or death.”

**Sen. Dr. Nanan:** You read it verbatim? I do not have that in mine.

**Sen. Annisette-George:** The President just explained to you what happened.

**Hon. E. Le Gendre:** I hope that would be sorted out in due course.

In winding up, I would like to address the issue of consultation, which has arisen in this Senate as well. The agreement was negotiated between TTUTA and the Chief Personnel Officer. It is normal that an organization that is authorized to undertake such agreement, is regarded as the competent body to do so. If that organization should no longer be in power, just as it is between governments—one government might take a particular decision, the incoming government, change in administration, maintains those arrangements to effect the smooth transition between one administration and the other. This is the same with TTUTA. To use the analogy of government, if every time a new government came into power and one had to go back out into the external community and renegotiate every convention, et cetera, that came to—[*Interruption*]

**Sen. Mark:** I want to indicate that as far as we are concerned we understand what you have said. We cannot tamper with the agreement that was signed between parties. Where we can engage in some discussion is where there is a variation in what has been signed and what is in the Bill. That is all we are saying. We agree with the principle that we cannot go back on the agreement signed between TTUTA and the CPO. We have no problem with that.

**Hon. E. Le Gendre:** On a happy note, I beg to move.

**6.10 p.m.**

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

**Mr. Chairman:** Hon. Senators, due to the fact that there was an issue with respect to which copy of the Bill was circulated, I am advised that the amended copy of the Bill was, in fact, circulated.

**Sen. Mark:** We do not have it so we are at a disadvantage at the moment, but you can guide us as we go through the Bill. Mr. Chairman, because of the nature of these clauses, may I suggest, with your leave, that we go through the Bill clause by clause. There are about 14 clauses, so we do not have to rush them.

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

*Clause 4.*

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

**Sen. Dr. Nanan:** Mr. Chairman, there was a suggestion to change “one year” to “two years”.

**Sen. Mark:** Mr. Chairman, under clause 4(3)(b), we would like to suggest—this is not in the agreement—to the hon. Minister that we should not confine a period of time of one year for a person like a teacher, who might experience injury. We would like to have an amendment where we can replace “one year” to “two years”. In fact, I was going a little further to say “anytime” so that it could be flexible, but I know that you would want to have some cut-off period. So, we are saying to give them at least a two-year period. It is not part of the agreement, so that they could have some flexibility.

**Sen. Annisette-George:** Mr. Chairman, while the time period has not been negotiated in the agreement, the one year time frame has been put to give certainty to the claim and to put a cut-off date for the claim. I think in Sen. Dr. Nanan's contribution, he spoke of the fact that it is unlikely in a year that you are going to know the full extent of the injury, but it is very normal that when one suffers an injury the doctor gives perspective partial disability as a percentage of permanent disability. So, we are going to keep the one year.

**Sen. Dr. Nanan:** We disagree with that. We strongly put forward a case for two years.

**Sen. Mark:** Mr. Chairman, I think that the Attorney General would agree that there was no creativity or real imagination applied to this particular agreement. What was done is that the drafting people, whoever they were, just took every single provision from the Protective Services Act of 1996. There was no application in terms of a proper interpretation of the agreement. We are not bound by the 1996 Protective Services Act. It is not everything in that Act we must just replicate. It is wrong and it is unfair. I am saying to the Attorney General that if you go to the Protective Services Act and this Act, it is a replication, except they have left out the word “police” and “protective” and they have put “teachers”. We cannot deal with that. I am asking that we put “two years” and not “one year”.

**Miss Le Gendre:** Sen. Mark, while I hear you, on the one hand there is precedent for the time period, and on the other hand, there has been no objection to it by the negotiating parties who are the parties here. There is a provision for the claimant to seek redress through the courts, if they are dissatisfied with any activity of the committee.

**Sen. Mark:** You have indicated to us that there is an agreement and the agreement is written and they are signatories. There is nowhere in the agreement where it speaks to one year. How can you tell us that is agreement by the parties?

**Miss Le Gendre:** Well, we speak to the circumstances surrounding the agreement; the people who entered this agreement, that is TTUTA and CPO, and they are aware of the model against which this particular piece of legislation was created.

**Mr. Chairman:** Hon. Senators, there is a procedural motion.

*Senate resumed.*

#### PROCEDURAL MOTION

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the conclusion of this matter and the other matter with respect to the Children's Community Residences, Foster Homes and Nurseries Bill.

*Question put and agreed to.*

#### TEACHING SERVICE (COMPENSATION) BILL

*Committee resumed.*

**Sen. Dr. Charles:** Clearly, this is not in the negotiated agreement. So, it is a matter of discretion by the Government in this case. It seems to me that if one were referring to any kind of injury, I could understand why one would want to



insist on a short period, because it reduces the possibility of the chance for fraudulent claims and so forth, but one is referring to a permanent disability. That is the only personal injury that is covered here; permanent disability or death. I have a difficulty understanding why the Government would be reluctant to increase the time beyond one year to two years for a matter such as this. What is the problem that one would expect to arise from going to two years instead of one?

**Sen. Annisette-George:** Why the period of one year has been determined is that it is consistent with the insurance that the ministry takes out which helps to fund these payments. It is only for a certain period from the date of the accident. So, there would be a problem if you go beyond that period.

**Sen. Mark:** Mr. Chairman, again, we are seeing in the Bill before us that all claims are going to be coming from the Consolidated Fund. Where is this insurance company coming from? Which insurance company have we engaged to deal with these teachers or to deal with the protective services? If all claims are a direct charge on the Consolidated Fund, how does an insurance company come into the picture? I do not understand why the Government is so hard on just making an adjustment from “one year” to “two years” in an effort to ensure that if somebody has an extra difficulty, that person would not be denied compensation. I do not understand what is the problem.

**Miss Le Gendre:** We are relying on the wisdom of the experience of the insurance industry and we are relying on precedent. I know it is not about relying on 1999, but we really do not have anything before us that suggests that people are hard done by the one-year period. We are satisfied that there are other provisions which allow for teachers, under this particular Bill, to have their claims heard.

**Sen. Mark:** May I make my final submission? Mr. Chairman, when we make laws, we think in terms of long term. We do not think about tomorrow. We think in terms of the long view and, therefore, we have to take into account the possibility of all kinds of incidences or developments or circumstances that would take place. You do not want to return to the Parliament every four years to alter the provisions. That is why last night we talked about flexibility and giving the board the authority. Why are we going to be so harsh on this matter? Mr. Chairman, we stand very firmly by our two-year period. If the Government wants to go that route, let them go, but that is our position.

**6.25 p.m.**

**Sen. Sharma:** Mr. Chairman, may I make a comment on the same point? I was just circulated a copy from TTUTA, Comments on the Teaching Service (Compensation) Bill, 2008. One of the suggestions is along the lines of what is being discussed now, where a suggestion is made that the time during which a claim may be made should allow for delays other than that of the teacher's making.

What they are saying is that one year is not adequate in the circumstances and they suggest that the committee should have some leeway in terms of the time period in which a claim can be made. At clause 4(3)(b), what they say is, we suggest after—

**Miss Le Gendre:** We hear you Senator and we hear Sen. Mark and perhaps there is room for compromise. We might look at a period of one year or such other time as may be approved by the committee; we will get the exact words; we can wordsmith it.

**Sen. Annisette-George:** Mr. Chairman, if I can suggest we could move ahead; we will try to draft something here and see if that will—

**Mr. Chairman:** We will come back to clause 4. Senator, in view of the fact that you have indicated where your amendments are, we will then take the next few clauses in groups. Okay?

*Clause 4 deferred.*

*Clauses 5 to 10 ordered to stand part of the Bill.*

*Clauses 11 and 12.*

*Question proposed,* That clauses 11 and 12 stand part of the Bill.

**Sen. Mark:** Mr. Chairman, I did not include it but it was a position I advanced during my contribution. I would like the hon. Minister of Education to consider including another daily newspaper, having regard to the fact that the *Gazette* is not widely circulated in the country and widely read. So, I would like to suggest for your consideration, rather than go with one daily newspaper, we can go with two daily newspapers.

**Mr. Chairman:** Clause 12?

**Sen. Mark:** Yes, Sir, in clause 12. I would like to delete the word "one" and replace it with the word "two".

**Miss Le Gendre:** Sen. Mark, if you do not mind, we might retain the "one daily" but we will satisfy your concerns by increasing the frequency; it is advertising, we will have to pay for it, but we will do it. That would achieve your aims. We accept, we will even use *Newsday*.

**Sen. Mark:** I just want to ensure that it is widely circulated and people are well aware.

**Miss Le Gendre:** We will maintain one newspaper; we will increase the frequency to satisfy that particular requirement.

**Sen. Anisette-George:** Mr. Chairman, if I may say also that the fact that they say "one" in the Bill, does not mean that the Ministry cannot do all; it means they must do at least one.

**Sen. Merhair:** Mr. Chairman, just one comment. I am still not sure about the Port of Spain. Do you need to put the geographic location in legislation? Let us assume that you cannot get a location, are you going to come back to the Senate and say that this committee could not be formed because you could not find a place in Port of Spain to put them? That is just my concern.

**Miss Le Gendre:** What we sought to do was to bring some certainty to the arrangements for this committee and, again, using the precedence of the other Act, we selected a location. It was simply for the purpose of bringing certainty to the arrangements for the establishment of this committee.

*Question put and agreed to.*

*Clauses 11 and 12 ordered to stand part of the Bill.*

*Clause 13.*

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

**Mr. Chairman:** We have some amendments?

**Sen. Mark:** Mr. Chairman, I would like to ask the hon. Minister, based on what was advanced earlier by Sen. Corinne Baptiste-Mc Knight; she did not circulate it but I took the privilege of doing it. She did in fact advance that this word "proved" puts a burden on the individual who is making a claim and therefore, it is being submitted that we delete the word "proved" and we replace it with the word "established".

**Sen. Anisette-George:** Mr. Chairman, if I may say, I am unable to understand the difference in that, in any event, the person who brought the claim will have to set out certain things. If they are saying that the person is dead, they

are going to have to set out that the person is dead. When you tie that back to clause 14(2)(a) of the Bill, which is a clause that Sen. Dr. Nanan spoke about, and they say that the Committee will operate:

"without regard to technicalities and legal form and...the rules of evidence..."

which are very restrictive, I think what we are concerned about "proved" being "proved" like in a court of law will be governed by clause 14(2)(a). [*Interruption*]

Yes, the committee itself is not bound by the formalities of a court of law. So, say for instance in a court of law if you said somebody was dead, you will have to bring a certified copy of that person's death certificate; you could not bring a photocopy. Because the committee is not bound by the rules of law they may let you bring a photocopy, but you still have to prove or establish.

**Mr. Chairman:** The question is that clause 13(2) be amended as follows:

In line one, delete the word "proved" and replace it—

**Sen. Mark:** No, no, no. Mr. Chairman, based on the submission made I will withdraw mine.

**Mr. Chairman:** Very well. What about clause 13(3)?

**Sen. Mark:** Yes, Mr. Chairman, this one, through you, Sir, to the Minister of Education and the Attorney General. It is clear to me from reading this that the burden of proof is being placed on the teacher. I find that is a bit unfair and I think that this again was lifted wholesale from the other place, that is the Protective Services Act.

We would like the presumption of innocence in this area and let the committee prove that whatever the person has submitted; whether the person has experienced an injury or in the instance where the person is dead, that is clear. The point about it is, how it is written here, it is giving the impression that the individual will have to prove his innocence and I find that to be unfair.

**Sen. Annisette-George:** Mr. Chairman, this is the exact text of the agreement. If you have a copy of the agreement. This paragraph 7(1)(A)(i)(a).

**Sen. Mark:** I withdraw, Sir.

**Mr. Chairman:** Clause 13(3)(b).

**Sen. Annisette-George:** Mr. Chairman, in the interest of time, clause 13(3)(b) is also the text of the agreement and that will be paragraph 7(1)(A)(i)(b).

Mr. Chairman, I am sorry. Clause 13(5), an amendment was circulated in respect of that. Has a copy reached you, Mr. Chairman?

**Mr. Chairman:** The amendments circulated by the Minister? Let me read it. The Minister's amendment reads like this:

13(5): In subclause (5) delete the words "civil jurisdiction under the Summary Courts Act" and substitute the words "summary jurisdiction".

**Sen. Anisette-George:** Mr. Chairman, if I may explain. There is no civil jurisdiction under the Summary Courts Act; Petty Civil Court is the civil jurisdiction.

**Mr. Chairman:** Well, let me put the question in. The question is that clause 13(5) be amended as follows:

Delete the words "civil jurisdiction under the Summary Courts Act" and substitute the words "summary jurisdiction".

*Question put and agreed to.*

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

*Clause 14.*

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

**Miss Le Gendre:** We conceded that particular point and we will use the same wording: "in one newspaper".

**Mr. Chairman:** Who is conceding?

**Sen. Mark:** I.

**Mr. Chairman:** Clause 14(2), same thing?

**Sen. Mark:** No, no, no. Clause 14(2), we want to get some clarification on this question about the committee:

"inform itself on any matter in such manner as it thinks just and may take into account opinion..."

We were just wondering when you say "opinion" in that context, could you clarify it for us?

**Sen. Anisette-George:** This I would say, Mr. Chairman, reverts again to the earlier subclause (a), in that in a court of law you could only take opinion evidence from an expert. So that you could not, Sen. Mark, go in a court of law and say in your estimation you think the car was travelling fast. Okay? Really,

*Teaching Service (Compensation) Bill*  
[SEN. ANNISLETTE-GEORGE]

*Wednesday, July 30, 2008*

the weakening of the rules of evidence lends to the informality and what lay people in the normal course of things will do. I think that "opinion" there goes to the benefit of the claimant and the sort of informality that you would want the committee to function with.

*Question put and agreed to.*

*Clause 14 ordered to stand part of the Bill.*

**6.40 p.m.**

*Clauses 15 to 17.*

*Question proposed, That clauses 15 to 17 stand part of the Bill.*

**Sen. Mark:** Mr. Chairman, I wanted to find out from the Attorney General whether it would not have been useful to have the Industrial Court intervene or to allow the teacher the opportunity of going to the court—that is the Industrial Court—before going to the Court of Appeal as was indicated earlier? Going to the Court of Appeal is an expensive exercise. You have to hire an attorney; depending on how long it takes it could be very, very burdensome on a worker and his union. Whereas, if you go to the Industrial Court you can represent yourself, you can get your industrial relations officer, your grievance officer and there could be a special division set up in the court by the persons in charge of the Industrial Court so that in that division the worker's representatives can make representation on their behalf without incurring unnecessary expenses. And I would like to ask the Attorney General, rather than go directly to the Court of Appeal or the High Court that you allow them to go to the Industrial Court, and failing there if they wish to go higher that is open to them. So, I just put that out for your consideration.

**Sen. Annislette-George:** Mr. Chairman, to Sen. Mark, through you, I could give you a long answer to that but the short answer to it, is that is again in the agreement. Paragraph 7, Roman numeral (ii), that is the short answer.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, what I am saying, the more we go through this—

**Sen. Annislette-George:** Excuse me! What I am saying is I can give about five answers, but we have accepted the fact that what we are giving effect to is the agreement.

**Sen. Mark:** I withdraw.

**Sen. Baptiste-Mc Knight:** Mr. Chairman, this is tragic, because we have a Bill that is coming to Parliament, something that is supposed to be in the best interest of teachers. Some very valid points are being made in the interest of the teachers and the only answer is that, it is not in the agreement, but when you look at the agreement in detail not everything that is in the agreement—I mean if it is a word here and a word there—or what is in the Bill, there are things in this Bill that are not in the agreement, so if we are acting in the best interest of the teachers, should we not be expedient with this, but rather be prudent and recommend that TTUTA and the ministry review this; not rush it through in the interest of the teachers? It is a waste of time.

**Sen. Annisette-George:** Mr. Chairman, particularly with respect to the issue with the appeal going to the Industrial Court and then going to the Court of Appeal, the committee has been given under the Act the jurisdiction of a court of summary jurisdiction. In the normal hierarchy of things, you will go from the magisterial court, a court of summary jurisdiction to the Court of Appeal and not the Industrial Court. My recollection is also that under the Industrial Court Act a teacher is not a worker. Okay? So there are all those arguments and that is why you go to the Court of Appeal.

**Sen. Mark:** Yes, but while the teacher is not a worker, there is provision in the court under the IRA for a special tribunal which is established under the Act. So, in other words, whilst in the law the teacher is not a worker when there is a breakdown in negotiations between the CPO and the Government, because teaching is an essential service, it goes to this special tribunal within the framework of the Industrial Court, so there is in fact a provision for them to go to the court to determine these things.

**Sen. Annisette-George:** From the very contribution of Sen. Mark, the special tribunal is set up under special circumstances which are not applicable here. So, for doing what you are suggesting, Sen. Mark, one will also have to make some amendment to the Industrial Court Act and the Industrial Relations Act, which is not an Act before us here.

**Miss Le Gendre:** That will only be setting a precedent, because all of these issues have already been trashed out and this is why it is the easiest course to follow.  
[*Interruption*]

*Question put and agreed to.*

*Clauses 15 to 17 ordered to stand part of the Bill.*

*Clause 18.*

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

**Mr. Chairman:** We have a proposed amendment.

**Sen. Mark:** I think it is clause 18(2), Sir, we would like it to be “one month” in both (1) and (2). So in clause 18(1) instead of “three months” we put “one month” and in clause 18(2) we put “one month” because there is no need for the Minister to hold a report for three months once you receive it. I think you could submit it to Parliament within one month.

**Miss Le Gendre:** Sen. Mark, the report, once received will have to be evaluated, taken to Cabinet and approved prior to it being laid in the House, so that one month is a little on the short side. So we are recommending here “within three months” so the possibility exists that we can lay prior to that, it is within three months, three months being the outer limit so that there is an opportunity to bring it to the House as soon as possible. You would be aware that we have had cases where we have brought reports in the shorter period than three months on other reports that needed to be laid in the Parliament.

**Sen. Annisette-George:** We do not want to come back every year to change it. It is realistic.

**Miss Le Gendre:** Yes. Thank you, Sir.

*Question put and agreed to.*

*Clause 18 ordered to stand part of the Bill.*

*Clauses 19 to 22.*

*Question proposed, That clauses 19 to 22 stand part of the Bill.*

**Sen. Dr. Nanan:** Mr. Chairman, I am just enquiring on clause 21. I had asked if the Minister had the power to amend the schedule.

**Miss Le Gendre:** The power of the Minister to increase the benefits listed therein, it is suggested that the Minister has that power so that there is not a need to return to the Parliament simply to increase the benefits paid or that can be paid. The alternative to this, of course, is to come back and go through this process to increase a benefit.

**Sen. Mark:** The question here is whether you have the power to increase benefits under the law?

**Miss Le Gendre:** Well, one would assume that, after all the negotiating party is the CPO on behalf of the Ministry of Education. *[Interruption]*

**Sen. Dr. Charles:** The question is how does the Workmen's Compensation schedule become amended? Is that schedule amended by order of the Minister or by Parliament?



**Sen. Dr. Saith:** My understanding here is that Workmen's Compensation is not a negotiated agreement and to increase it would have to be renegotiated and on that basis an increase will take place. I think that perhaps I can address the point raised by Sen. Drayton. I think we are mixing up this piece of legislation which is seeking to give effect to a freely negotiated agreement between a trade union and the employer.

Now, our own personal views of whether the union did a good job, whether the union could have gotten more or the employer did a good job is not relevant, because this legislation is not about that. This legislation is about giving effect to an agreement and I take Sen. Mark's point—we do not normally agree on many things—that really this is a kind of halfway out now, we should really be looking at legislation which deals with compensation to workers and we should not tie it to any particular agreement.

I am going back to the point I am going to make on 5, I have no objection to one year, two years, three years; but the point is you have an agreement and you have legislation that has really given effect to one agreement, with the Government as employer, if it makes a different arrangement now, it would open itself to that being reopened by the police by saying this. The solution to this is to keep these as they are and move quickly to replacing them by more general legislation. That is all I indicate.

**Sen. Dr. Charles:** That could only cause some discomfort or some harm, to come and say, one year, two years—[*Inaudible*]

**Sen. Dr. Saith:** But you do not know. Would the police now come and say, “we want to reopen the agreement because you have us at one year, you give the teachers two years, make us two years”, and then we keep this starting up. I think the more important thing is to get this piece of legislation passed; do not do anything that may have implications of opening up other things; set the thing in motion so that people would start getting compensation and review the whole question, and I take Sen. Mark's point that this is not the way to do it.

**Sen. Dr. Charles:** That one year was not the Minister.

**Sen. Mark:** I do not think that the Minister has the power to increase the value of benefits. She may add a benefit if she wishes, but if you go back to the Protective Services (Compensation) Act and you look at clause 21, it reads as follows:

“The Minister may by Order, amend...”

the first and second Schedules by adding to them any other service or benefits as the case may be. Nowhere does it say that the Minister has the power to increase the value of benefits. You can add, but the power—[*Interruption*] No—to increase here, how are we interpreting “increase” in the context of this particular measure? When you say increase, what are you saying here?

**Miss Le Gendre:** Senator, if the outcome is of adding or increasing a benefit, let us say it is increasing the monetary value of the benefit and by adding another benefit it also increases the monetary value, then it is the same thing we have done, because the outcome of all of this is the monetary value to which the Minister commits. So, whether you increase the level of benefits or increase the quantum of benefits with a financial impact, it is all the same.

**Sen. Mark:** I prefer to go with this draft. I feel safer with this one. Could we amend it to reflect this one? So, as you said it is the same thing, let us go with this one [*Interruption*] so we will maintain consistency. We would like you to go with this one so there is no ambiguity, no confusion, and go with the amendment as we have here. [*Inaudible*] Just incorporate it. [*Inaudible*]

**Mr. Chairman:** Let me just put clauses 19 and 20 first.

*Question put and agreed to.*

*Clauses 19 and 20 ordered to stand part of the Bill.*

**6.55 p.m.**

*Clause 21.*

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

**Mr. Chairman:** Hon. Senators, the question is that clause 21 be amended as follows:

Delete the clause and insert the words, “The Minister may by order amend the Second Schedule by adding to it any other service or benefits as the case may be.”

*Question put and agreed to.*

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

*Clause 22 ordered to stand part of the Bill.*

*Schedule I.*

*Question proposed, That Schedule I stand part of the Bill.*

**Sen. Merhair:** Mr. Chairman, I am seeing “Identification Number of Beneficiary”, am I also to assume that if the person does not have an identification number that they can use their passport or their driver’s permit? Sometimes when we put things down in black and white and you go into the public service, they would tell you that you do not have an identification number so you cannot access the service. Just asking.

**Miss Le Gendre:** We consider indicating ID, which is national ID. It says, ID. It does not specify, so we will assume that it means any type of ID and the number of that ID because driver’s permit has an ID, so does your passport, so does your national number. But on the form there is some guidance to the beneficiary.

**Sen. Rahman:** Mr. Chairman, the bottom line says, teacher’s”, with an apostrophe “s” what does that mean? Should it not be “Teachers’ Signature” on it?

**Miss Le Gendre:** That is incorrect; it will be corrected.

**Sen. Rahman:** Pardon?

**Miss Le Gendre:** It will be corrected. It should be simply “Teacher”.

**Mr. Chairman:** It is corrected.

**Sen. Rahman:** Oh, you have already taken note of that. Thank you. Sorry.

**Miss Le Gendre:** No, we took note of it when you brought it to our attention.

*Question put and agreed to.*

*Schedule I ordered to stand part of the Bill.*

**Mr. Chairman:** We are going to revisit clause 4 before we do Schedule II.

*Clause 4 reintroduced.*

**Sen. Baptiste-Mc Knight:** Mr. Chairman, there is a small problem in Schedule II (c).

**Mr. Chairman:** We have not done Schedule II as yet. We were looking at the proposed amendment to clause 4(3)(b), to delete the word, “one” and replace it with the word, “two”.

**Sen. Annisette-George:** Mr. Chairman, we have agreed to maintain our position with the one year, having regard to the prior submission by Sen. Dr. Saith with respect to keeping the consistency with all the agreements, so that we do not open up another round with the other legislation.

**Sen. Dr. Charles:** I want to—*[Interruption]*

**Sen. Dr. Saith:** The Government must be seen as consistent as how it deals with these things. It was not in the agreement. We said to the police one year for a similar type of bill. I am saying to you that it is quite clear that what you want to do now is to review it in a holistic manner—*[Interruption]*

**Sen. Enill:** And it has to be fair to everybody.

**Sen. Dr. Saith:**—and it has to be fair to everybody.

**Sen. Enill:** Because this is not a monopoly effect.

*Question put and agreed to.*

*Clause 4 ordered to stand part of the Bill.*

*Schedule II.*

*Question proposed, That Schedule II stand part of the Bill.*

**Sen. Baptiste-Mc Knight:** Mr. Chairman, “(c) All necessary injury leave”, I am suggesting that it be brought into line with the actual wording of the memorandum, and instead of “approved by the committee”, it should be “registered under the Medical Board” Act or “a medical board”.

**Sen. Annette-George:** That is what is there.

**Miss. Le Gendre:** It is in our version. Again, it will be amended as you see. The copy we have says, “All necessary injury leave as may be certified by a medical practitioner registered under the Medical Board Act or a medical board”.

**Sen. Mark:** *[Inaudible]* —but I did not bring it today. Okay, once it is there. It is not in?

**Sen. Annette-George:** Mr. Chairman, we will amend in terms of exactly what is there in the agreement, and the agreement says, “All necessary injury leave as may be certified by a medical practitioner registered under the Medical Board Act or a medical board”.

**Mr. Chairman:** The question is that Schedule II be amended at “c”, by deleting the words “approved by the Committee” and the insertion of the words, “registered under the Medical Board Act or a medical board”.

*Question put and agreed to.*

*Schedule II, as amended, ordered to stand part of the Bill.*

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

*Senate resumed.*

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

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

*Order for second reading read.*

**The Minister of Social Development (Hon. Dr. Amery Browne):** Mr. President, I beg to move,

That a Bill to amend the Children's Community Residences, Foster Homes and Nurseries Act, 2000, be now read a second time.

Mr. President, the care and welfare of the children of Trinidad and Tobago certainly are not merely a political issue, but a national concern. Our society is becoming increasingly aware and concerned about the rights and interest of our children, and the stakes are very high with regard to our next generation.

Yesterday, Mr. President, we engaged in heated and yet very constructive debate regarding the future of our children, including those who must be placed in residences, nurseries or in the custody of foster parents. We also acknowledged that special attention must also be given to our infants and pre-schoolers.

We wish to reiterate that a review of the Children's Community Residences, Foster Homes and Nurseries Act, 2000, in the year 2002 identified a number of deficiencies in the said legislation, including the following:

- The Act did not indicate clearly whether the licence was granted to the residence or to the person running the residence.
- The Act did not properly take into account the development in administrative law, which requires public authorities to give reasons for administrative decisions.
- With respect to the issue of foster care in Part IV of the Act, it was felt that the definition of foster care ignored the reality that many foster children do not have a suitable family structure to return to at the end of the fostering period.

In these circumstances, it was suggested that provision must be made for situations where fostering may be a long-term option. It was also suggested that there was a need to clarify the respective roles of the Ministry and the authority

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with regard to foster care. The Family Court Committee proposed changes to Part V of the Act which dealt with nurseries. One of the key issues identified was that the definition of the term “nursery” lacked specific clarity and would create serious difficulties in practice.

This Bill was introduced in the House of Representatives in September 2007 and lapsed on the dissolution of the Eighth Parliament on September 28, 2007. The Bill seeks to amend the Children’s Community Residences, Foster Homes and Nurseries Act, 2000.

Mr. President, I take this brief opportunity to thank all Members including the distinguished and hon. Members on the other side, for their contributions and suggestions relevant to the Children’s Community Residences, Foster Homes and Nurseries (Amdt.) Bill. We have circulated amendments which in their content lean on the concerns expressed during the debate that took place yesterday. At that point, the Government also gave the rationale for the Bill and also conducted a clause by clause examination and we must now act without hesitation.

This country has joined the international community in committing to uphold the rights and welfare of our children. Let us signal through the passage of this additional Bill, that we have heard the voices of our children and their caregivers and with renewed resolve, let us demonstrate to the citizens of this country that we truly understand that our children are not mere expenses, but are actually valuable investments in the future of our beloved country.

Mr. President, I anticipate that Members opposite may have a few additional comments to offer, but I urge us or urge through you, to consider the possibility of rapid progress to committee stage as the *Hansard* would already reflect our collective inputs in wisdom on this particular Bill.

I beg to move.

*Question proposed.*

**7.10 p.m.**

**Sen. Dr. Jennifer Kernahan:** Mr. President, I thank you for the opportunity to contribute to this Bill before us.

In 1999, the then Attorney General of Trinidad and Tobago, Mr. Ramesh Lawrence Maharaj SC, mandated a team of legal draftspersons and representatives of key social sector ministries to conduct a comprehensive review of all children

legislation, with the aim of achieving conformity with the United Nations Convention on the Rights of the Child. In addition, the entire package of legislation was referred to a joint select committee of Parliament for consideration and debate.

This Bill before us is one of the pieces of legislation that also included the Children's Authority Bill, which we debated yesterday; the Family Court Bill; the Miscellaneous Provisions (Children) Bill and the amendment to the Children Act.

The introduction of this comprehensive package represented one of the first attempts by any administration to deal with the issue of creating a Trinidad and Tobago fit for children, safe for children, as we promised to do after the World Summit on the Protection, Survival and Development of Children. That piece of legislation before us sought to establish a legal framework for the establishment, for the operation, for the management, licensing of children's community residences, foster homes and nurseries in this country. That legislation also provided and provides for the oversight of these institutions by the Children's Authority.

The issues surrounding the care and protection of children are taken very seriously in any civilized, developed country, and we have aspirations to be really considered civilized and developed. Therefore, we are committed to introduce legislation, programmes and policies which would ensure the highest level of care and protection for our children. We are late; we are 18 years after our commitment to do so at the world forum in 1990, but we have been hearing between yesterday and today, "Better late than never."

I want to look, in the context of our Bill, at some of the standards that we could aspire to in terms of other developed countries that have established standards for children. Some of these issues actually arose yesterday when we debated the Children's Authority Bill.

I have a document before me which was produced by the Department of Health, London, The Stationery Office. It is called "Children's Homes, National Minimum Standards, Children's Homes Regulations". One of the problems I had, as I prepared for this debate, was that we had the legislation before us, but there were no standards that I was able to find to back it up, to elaborate on exactly how these homes were supposed to function, what were the duties of the caregivers, the managers of the homes, nurseries and foster homes. This whole document deals with national minimum standards and the regulations for the care of children in Britain. Without the standards, it is impossible for us to enforce the regulations

in terms of what level of care is expected of the caregivers. I do not know if the Minister would be able to shed some light on that issue, where the standards that the caregivers and the managers of these homes are expected to abide by are concerned.

Some of the standards that we can aspire to certainly are elaborated in this document; I will just quickly quote some of them. One of the standards is that children in these institutions must be provided with practicable support for contact with their parents and their significant people, and they are encouraged to maintain contact. This was a point that came up yesterday in the debate.

Another standard that all the homes must adhere to is the question of a comprehensive plan; each home, each institution must have a comprehensive plan for young people who are preparing to leave and go into independent or semi-independent living. This was a point that came up very strongly yesterday. We see that this is actually part of the standards of developed countries in terms of how they run their institutions. The institution must have a plan to support and assist the young person who is preparing for a transition phase of his life out of the institution. That transition plan must have special provisions for young people with disabilities and special educational needs.

Another interesting standard that is part of the United Kingdom (UK) legislation is that children in these institutions must be provided with medical, dental and other health services. I think this came up yesterday also, that it was also important to ensure that the medical health and emotional needs of all children were provided for in these institutions.

Another point that came up yesterday also, and it was institutionalized and made a standard, was that there must be an education policy. Each institution must have an education policy that would show how it intends to promote and support the educational attainment of children throughout the time they live in these institutions, and to provide all the supporting facilities.

Another important standard that is established is that there must be systems to promote the safety and welfare of children to protect them from abuse, and these systems and standards must be known by all the staff.

Lastly, one of the standards that struck me very strongly was that the registered person—the manager in our case—must create an atmosphere where bullying is unacceptable, it is known to be unacceptable. They must have a policy



against bullying, and this must be effected in the institution; the staff must play a very strong role in this. They also went on to have another standard for the training and development of staff, which is very important.

I have not seen the standards. I do not know if the Minister is aware of where we could get these standards, to see to what extent we are up to scratch with respect to what the most developed countries are doing. I know one of the Senators made the point this afternoon that we had to compare ourselves with the highest standards and not the lowest.

Mr. President, in the definition of foster care, for example, I know that culturally and socially we have a different environment here; therefore, some of the issues that would arise and that are very strictly observed in developed countries would be more difficult for us to implement here. For example, in the area of foster care, they actually define foster care occurring when a child under 16 years, or under 18 years if disabled, is cared for and provided with accommodation by an adult who is not a relative for 28 days or more by a private arrangement between patient and caregiver. They actually defined a foster child and what foster care involved.

In the UK, apparently the foster care parents are required to lodge the fact that they are foster care parents with the local council. Parents putting their children into foster care are required to notify the local council. They have said that foster care also applies to children who live with persons who are not their relatives for reasons of health care or education, or children living with a family friend as a result of separation, divorce or arrangements at home. That wide net that they have cast on foster care, perhaps, would not be totally suitable to us, because we have a more informal arrangement here. We have situations where our children spend extended time at close family friends and so on, for the same reasons: education, health or whatever. We are not sure that we would be comfortable having the State step into situations like that and having to register with the State. So there are issues that developed countries take very seriously; we have a more informal culture and it is different.

At the same time, we are sure that we want to establish and promote a culture where there is a level of accountability in institutions and homes, where there is a level of transparency, where there is training of the caregivers and managers, where there are clearly established standards and regulations that they would follow and would be held accountable for, in our residences, foster homes and nurseries. Clearly, although we would not be as stringent as the more developed countries, we have to be on the road to establishing standards to protect our children.

Therefore, it is more painful that we are here now bringing this legislation into law, so long after we have committed to these issues.

What is inconceivable to me also, when I actually look at the legislation, is that except for amendments to just a few clauses, there is nothing of earthshaking importance or seriousness that would have justified the delay of this legislation over seven years.

**7.25 p.m.**

Some of the major clauses that were amended in this legislation before us start with clause 11. In the Act section 11 says:

“Where a licensee is in breach of any provision of this Part or in any term or condition of the residence licence, the Authority may revoke his licence.”

In the amendment, a subclause was put in. Clause 13(b) 11A(3) states:

“Notwithstanding subsection (1), where the Authority determines that no corrective measures are possible, the notice of the revocation of the residence licence shall take immediate effect.”

This is an important addition to this particular clause. If the authority determines that the licensee is in breach of his licence and no corrective measure is possible, the revocation of the licence could take place with immediate effect, notwithstanding the fact that normally, based on the original legislation, notice would have been given to the licensee, be it not less than six months after the date of the notice. That is one of the important amendments to the clause.

Another amendment is with respect to section 27(2) which says:

“Where the officer referred to subsection (1), is refused admission to any premises, or has reasonable cause to believe that children are being received or kept in premises in contravention of this Act, he may on warrant issued by the Authority enter such premises.”

This clause was changed, “the court”. In a number of other clauses like wherever “Minister” appears it was changed to “Authority”.

In the Act section 30 says:

“The Minister shall cause a Register of approved foster parents to be maintained.”

The new amendment says that the authority shall cause to register.

Sections 30 and 34 had another change from “Minister” to “Authority”

One of the other major changes is in terms of the fines applicable to persons who are in contravention of the Act. Section 34(2) of the Act says:

“Any person who keeps or causes a foster child to be kept in contravention of this section, commits an offence and shall be liable on summary conviction to a fine of five hundred dollars and imprisonment for a term of six months; and the Court may make an order in respect of that child.”

In clause 31 this has been changed to read:

“...commits an offence and is liable on summary conviction to a fine of ten thousand dollars and twelve months imprisonment”.

That was another important change with respect to the fines imposed.

This was also reflected in section 37, where it forbids any person to advertise to offer foster care. The original fine was \$500. It has been changed to \$1,000.

These were some of the major changes I saw in terms of the new proposals for this Bill before us.

The other issues that were brought up in this Bill were as Sen. Mark said, questions of housekeeping. Many of the issues had to do with changing “may” to “shall”. I do not know if that is important enough to keep us waiting for seven years. Other issues had to do with changing capital letters to common letters and vice versa; the word “operator” to “manager” and inserting new definitions. It was a question of tidying and tightening the Bill and increasing the penalties. There was nothing earth-shaking or nothing different. The essence of the Bill remains the same. Subclauses were deleted.

Section 54 states:

“Where in any other written law reference is made to Orphanages and Industrial Schools such references shall be read as a reference to a Children’s Home and Rehabilitation Centre.”

I cannot understand how this is so different from clause 47 which reads:

“Where in any other written law reference is made to an Orphanage or Industrial School such references shall be read as references to a Children's Home or a Rehabilitation Centre, respectively.”

They just changed around words, but they have the same meaning and intent. The question of any major change in this Bill did not arise. It was a question of housekeeping, grammar and syntax. It was nothing to justify a delay of seven years in coming to Parliament.

The major issue is that a study was commissioned by the Ministry of Social Development which was meant to indicate to the ministry, the number of institutions in this country; the state of readiness; their standards; what infrastructure is necessary and the issues that need to be ironed out before the implementation of these amendments. This is *A Study of Children's Homes In Trinidad and Tobago* by Adele Jones, Michele Sogren, Social Work Unit, Department of Behavioural Sciences, The University of the West Indies, Trinidad, April 2005. The crux of my contribution is to get a sense from the Minister as to what has been done based on the recommendations of this study to prepare the ground for the implementation of the Bill that we are going to pass. Clearly, this is the intent of the study. Under "Conclusion and Recommendations", page 62 states:

"This study is linked to the government's commitment to meet its obligations under the UN Convention on the Rights of the Child and to improve the standards of care for children living in children's homes. Based on previous studies and anecdotal evidence, it was widely acknowledged from the outset that children's homes were under-staffed, that staff working in them were largely untrained, that many homes would simply lack the resources to put in place required improvements and that those who suffered most as a consequence of these shortfalls were children."

After doing this study they made a number of recommendations, the most important of which I will indicate, so that the Minister can tell us what was done by the ministry to implement them. This is one of the major recommendations they made. It states:

"The Government should develop policy on 'deinstitutionalisation' and consider the establishment of small, family group homes."

This point was made yesterday by Sen. Cindy Sharma. It is something that many people feel strongly about in this environment of small group homes. I visited an organization that had a small house, well put together, regulated and organized, where the children had a social environment conducive to their development, instead of larger institutions where bullying, acts of victimization and violence take place.

Another important recommendation is:

"The Government should review the arrangements for state funding of subventions to homes. The review should result in several outcomes:

An increase in government funding so that financial support more closely matches the costs of running a home and caring for children."

So many times we hear the Ministers quote the amount of money that they give to these homes. The point is not how much money you give to the homes, but how much money they need to run these homes effectively and care for the children in the best possible manner. Money is being spent on all kinds of other projects. We believe that priority should be placed in funding properly these institutions in terms of the actual cost of running the home and caring for the children.

They recommended a more equitable system for the distribution of government funding across all homes; streamlining and simplifying the process for approving and allocating funding and speedier allocations of funds so that people would not have cash flow problems.

Another important recommendation is:

“The Government should consider an immediate review and restructuring of recruiting practices. Additionally, there is need for a large scale recruitment programme for residential child care staff carried out in conjunction with children's homes. These activities should result in the following outcomes:

Recruitment targets should be set based on the findings of the study...

Targets should be linked to standards and recommendations on the optimal staff: child ratio.

A national framework for career development and pay structure for staff working in children's homes should be established...”

One thing we find in our society is that people who do the most important work with children from an early age are least appreciated.

#### **7.40 p.m.**

One example is the issue of pre-school teachers. Pre-school teachers are never considered, I believe, when we are talking about teachers, yet they are the most important teachers in our society, because they are the ones who deal with children; they are in the formation of the children's minds from the very early ages. Another group would be those people who work in these institutions; those who take care of the troubled children and children with problems. We have not put our minds to the issue of training these people and having them understand what their roles and functions are and what standards of training are necessary.

In the United Kingdom, the National Minimum Standards have outlined a programme of training for staff. It is very wide and rigorous. People are expected to understand so many of these issues. They are expected to understand normal and abnormal child development; basic residential care skills; team working;

specific childcare approaches and skills appropriate to the home's purpose and function; the use of restraint; child protection; issues of race, ethnicity, religion and culture; how to deal with sexuality; health education relevant to growing children, including diet and nutrition; first aid; complaints and representations procedures; and a number of other issues. That is the level of training and knowledge that caregivers are provided with in more developed countries.

These are the recommendations made from the study: staff and caregivers should have established a national framework for development, a pay structure, regularized salaries, vacation, retirement and other benefits, commensurate with the levels of training and development. There are a number of other recommendations, but I would move on.

Another important recommendation is that:

“The Government should consider implementing a comprehensive targeted programme to upgrade children's homes with the following outcomes:”

These recommendations are important, because what we have in our more informal system here is that somebody would take in a number of children because these children are homeless, parents might have died from HIV/AIDS or might have left the country. We have a lot of those cases. I actually know many very strong women in our society who have taken these children into their homes and they would be considered foster care and children's homes. They would have to meet certain standards, but without the training and support—What this recommendation is saying is:

“Homes that do not meet the required physical standards for caring for children should be given support and an appropriate timescale in which to upgrade their facilities

Support should be available in several forms e.g., technical advice, access to loans and grants, links to potential sponsors...

Kitchen and bathing facilities are improved in homes that do not meet the (required) standards...

Homes are provided with planning support and technical advice so that future development...”

These are some of the issues that we definitely have to face. We know that in our country—This study showed that the greater portion of children who are in institutions are spread out over a large number of small institutions and homes

and they take these children as best they could, with the resources and knowledge they have. Therefore, these people would need to be helped. Another recommendation is:

“The Government should ensure that all relevant Ministries and Departments are charged with the responsibility for working in cooperation with one another in respect of children in homes with the following outcomes:”

This one came up very strongly yesterday. We cannot have this disjointed separation, where the Ministry of Social Development is dealing with the question of a National Plan of Action for Children, promoting children’s rights and the care and protection of children and other Ministries are not intimately involved at the highest levels. In fact, this document made the recommendation that the levels of Permanent Secretaries and Ministers should get involved in working with the Ministry of Social Development on the National Plan of Action for Children and ensure that there is a holistic—I see Sen. The Hon. Dr. Lenny Saith learned the word from us—approach to the care of children.

In this recommendation, they said that different Ministries should cooperate to ensure that the children get their birth certificates, that school places are provided, health professionals visit these homes very specifically, arrangements are made to carry out health checks on the children and that the children have access to a full range of vocational, educational and employment opportunities. This came up yesterday in the Children’s Authority (Amdt.) Bill. One of the things that we do not have is a structured approach to ensuring that children in institutions have access to vocational, technical and educational opportunities. It is done in a very ad hoc manner. It is not done in a structured manner. Some children go to school and some do not. They drop out when they want and there is no provision to ensure that these children are cared for in that way.

The last recommendation that they made, which I would like to comment on is:

“The Government should introduce comprehensive and pro-active prevention and support services with the following outcome:

The establishment of assessment teams...conferencing systems to plan, review and evaluate the total care plans for every child from the time of entry to leaving,...

This was part of this—I believe they would have gotten it from the United Kingdom’s documents, because in the United Kingdom every child is evaluated on entering a home and every child is assessed periodically, in terms of mental,

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physical and educational. They want to see progress in that child, from the time they enter to leaving the home. At every stage, they would know how that child was progressing. This is one of the recommendations that this study made to the Minister in 2005.

We are in 2008 and we are about to pass this Bill. We are about to lay the conditions for these homes to be scrutinized, evaluated and licensed. I would very much like to know from the Minister, to what extent these recommendations have been implemented. To what extent have recruitment and infrastructure been taking place? Are the training programmes that are necessary being set up? We want to know how the passage of this Bill this evening is going to translate into reality. If these recommendations are not taken seriously on board and there is no holistic approach to what we are doing this evening, then it would be just another case—as the other Senators have lamented, we would pass this Bill this evening—of it being pigeonholed for another 10 years. It would have been passed and our children would be in the same position. We do not want that to happen.

Our country is committed to being a country that is fit for children. At this present time, this country is not fit for children, but the passage of the Children's Authority (Amdt.) Bill and the Children's Community Residences, Foster Homes and Nurseries (Amdt.) Bill could make a difference, if there is a political will on that side to do the work to ensure that these Acts are really implemented in the best way possible.

Mr. President, I thank you.

**Sen. Cindy Devika Sharma:** Thank you, Mr. President. I would be very brief, because yesterday my comments related to the Children's Authority (Amdt.) Bill and they will hold true for a lot of the thoughts on this particular Bill.

Two issues that I did not deal with yesterday would be addressed today, in relation to the Children's Community Residences, Foster Homes and Nurseries (Amdt.) Bill. One concern is with respect to youth with disabilities in the foster care system.

I have a report from the National Council on Disability in the United States—*Youth with Disabilities in the Foster care system, Barriers to Success and Proposed Policy Solutions*. What they have noticed is that in the United States at any point in time, there are 500,000 foster care children. That is a tremendous number, if you think about it. In relation to Trinidad and Tobago, within that 500,000 there is a high level of children with disabilities, physical disabilities in particular. This suggests that, in any foster care system, there should be proper



screening of children who enter the foster care system, to determine the type of disabilities that they have, so that the foster care parent could be suitably trained to deal with that disability, or a foster care parent could also be chosen with the disability of the child in mind. That might assist foster caregivers in best dealing with the child they have in their care. That is one suggestion that I have.

Another suggestion is that in order to have these foster caregivers in the system, more financial incentives must be given, in terms of recruiting foster caregivers who want to actually be part of the system. In addition to not just being a foster caregiver, they should directly target someone who is interested in dealing with children with disabilities. That is one suggestion that they have made. Perhaps, it could be looked into.

The last point I wish to make concerns the psychiatric care of children in the foster care system. I have a document published by the American Academy of Child and Adolescent Psychiatry, published September 20, 2001. What this article says is that just as disabilities are a major part of the system, we have a very high level of children with mental issues. This suggests that children and youth in the foster care homes should have access to formal screening programmes. Just as there are disabilities, there should be access to formal screening programmes to determine the mental state of that child. If it is done in a timely manner, the screening assessment will be diagnostic in a big way. Because of this diagnostic aim, it would allow for an intervention at an earlier stage, as opposed to when it reaches a crisis point. Rather than wait for someone to stab somebody in the foster care home, there are signs, I am sure, that would be there before. We can actually have trained personnel distributed in the system. You would probably have to do it in terms of districts and communities. It suggests that you can intervene at an earlier date and cut it off before the crisis point reaches. This would really help that child before he or she damages herself/himself or another person.

In closing, I, of course, support this and I do hope that the Minister would take into consideration some of the points made on this side. Thank you.

**Mr. President:** Do we have any other speakers?

**Sen. Mohammed Faisal Rahman:** Thank you, Mr. President. I would start by casting my mind back a bit. It seems as if the effort of the United National Congress government of 2000 was an historic one, in that it attempted to bring forth legislation for children's welfare, the children legislation package, which, even today, is reverberating in these Chambers. There is a saying: God works in mysterious ways, His wonders to perform. I cannot help but note the irony of this evening's debate.

**7.55 p.m.**

Yesterday, Sen. Wade Mark had occasion to refer to the tyranny of the majority and, today, by circumstance of events, we are seeing this tyranny of the majority overturned. I must pay special compliments and regard to Sen. Wade Mark, who I would call a remarkable man, and who is not afraid to wade out into deep waters to make his mark. I compliment Sen. Mark for the efforts he made, because today we have a second bite of the cherry, to take care of matters that we were not able to complete by compressing the debate as we had tried to under duress. I take it that the Government is wiser after the event, and in future we should have more time given to us to discuss these matters.

I have some serious concerns with the Bill. I notice that the title of the Bill is being changed from “Foster Homes” to “Foster Care”, and having been in marketing for a long time, I realize the importance of little words. I know that this Government likes to call itself a caring Government, and I am really hoping that the change of “Foster Homes” to “Foster Care” is not meant to produce a political benefit. I sincerely hope so.

In the legislation that the Government just brought, there is a particular instance here which disturbs me. In the Bill that was passed yesterday, there was a fear that a child is not likely to become a charge on the public funds. It seems as though the Government is incapable of doing an altruistic deal without being concerned with the cost when it pays no concerns for cost in areas that are of far less importance. I wanted to make that point. I think that it is very bad, because that particular phrase should not have been put into the legislation. The care of the child should be paramount, and we should not be concerned about what it cost to rescue a child, because the investment in the human capital is greater and more important than the investment of all of the capitals and other areas that we may seek to spend the national patrimony on. So, I think this is very important.

To go further, the explanations given by the Minister of Local Government yesterday even regarding the concerns that were raised in the minds of the Government—

**Mr. President:** Senator, that is another debate. You have to start your contribution on this Bill today, and not debate whatever was said yesterday. What we said yesterday was debated yesterday, and your debate today is on another Bill.

**Sen. M. F. Rahman:** Mr. President, thank you. I am guided. The Minister of Social Development told us that concerns were raised in 2002 regarding the parent Bill, but that parent Bill was passed with a constitutional majority with the

cooperation of the Opposition of that date. I cannot understand, even now, why this Bill was suppressed and delayed. Sen. Dr. Kernahan has gone at lengths to show that the changes to the Bill have been extremely superficial. Again, we have the point where the Bill has been delayed, and we are now being asked to rush to the committee stage and get the matter over.

I continue to be unconvinced that there was any genuine reason for the postponement of this matter. What is very unfortunate is that there is a package of legislation attached, and we are being made to deal with this matter piecemeal. We cannot tell what is coming in the other parts. We are finding faults in the present Bill and we are being told that it is going to be covered in future legislation, so we are at a disadvantage. I would have preferred to see all the Bills, even if they were to be debated separately, so that we would know what we are dealing with in a holistic way.

I have a very great concern with the question of residences. I have gone back to the parent Act, because the amendment does not deal with the definition and the requirements of community residences. It seems to me as if the Government is expecting—I made mention of this before that this is a business opportunity that is going to be presented to many persons who would see an opportunity when the Act is brought into place.

When I contemplated and reflected upon it, the community residences are envisaged in such an elaborate scale that it is impossible to find community residences suddenly materializing to take care of the young persons who are going to be placed in them.

There is a ratio of childcare to the number of children; there is a standard to be set; and there is a manager and staff to be put in, and we do not have these things existing today, except maybe in YTC and at St. Jude's Home but, at the present time, there is no way that community residences of an adequate sort can mushroom to fill the breach.

My point here is, rather than licensing community residences that are non-existent at the moment, I believe that it might be the better course for the Government to undertake the building, construction, outfitting and staffing of these residences, with the knowledge of the child population that is going to go into those residences. There are no such institutions that are already set up. You are now starting off from the ground. The Government should look at where it is going to place these residences and in which catchment areas, and design, build, staff and equip these residences to do the job with the proper supervision that the

Government itself can do with its experience with YTC, schools, the school feeding programme and hospitals, because these are all aspects that would impact upon the proper functioning and running of these community residences. Insofar as foster homes are concerned—

**Hon. Dr. Browne:** Under the guidance of the Children's Authority.

**Sen. M. F. Rahman:** Absolutely, under the guidance of the Children's Authority. The point I am making is there is no way that you are going to find community residences springing up into being, because they are too elaborate structures and mini-institutions to mushroom out. Even the biggest company in Trinidad is not going to sit and plan what you are going to put into their place and prefigure how to build a building and staff and so forth for you to send children for them to take care of. The business opportunity is not all that good.

While I see the existing facilities being possible in foster homes, where people who are interested in adopting a child would have their own homes already existing and they can be monitored, I would go so far as to say that the Government should consider offering a stipend or a wage or payment, but compensation for people who are willing to undertake adoption, so that you do not only have wealthy persons who have the means to come in and adopt a child, but persons who would be prepared to undertake the responsibility, being properly compensated by the Government. What I am saying is that you could have foster homes, as an institution, proliferating all over the country with proper supervision on the part of the authority of these various foster homes. Simply waiting for people to come and adopt, out of the goodness of their hearts, I do not believe that you are going to have the number coming up voluntarily to fill the breach that needs to be filled. That is the point.

In other words, incentives must be given to induce adoption by individuals; not merely childless couples who are looking for a child—there are not enough of those—or people already with families. We are talking about people whom you want to encourage, and it is going to be worth their while. They would be doing two things: helping a child and getting a benefit out of it.

Do you know that many of our Trinidadian women leave here and go to New York and take care of elderly people and children and they do very well? It is a profession. *[Interruption]* You see, you are looking at solving a serious problem. Maybe I am being heartless here, but I think I am being more pragmatic and practical. I am making a suggestion, and it is in the hearts of the ladies that you should not do that. Let me tell you that you have to be pragmatic and practical. If you have the number of children who are street children, who is going to undertake to take a strange wayward child

under their care and be abused in the process and be charged with criminality later on and face those things? I am afraid that adoption is one thing and managing wayward children is another. You want to place these disfigured, problematic children in foster homes, and it is not a simple case of heartfelt adoption. We are not talking about Madonna and Jolie going and adopting one, two and three children, because they have millions of dollars and they can afford to do it, because they are that way inclined.

We are talking about a situation in a nation with a serious problem of children being wayward and being abused. We have been talking about street children here for the longest while, and it is extremely important to understand that if you do not take a hard-nosed approach to this matter, you are not going to solve the problem. You do need incentives. I want to underscore: Government run, built and operated residences and incentive-based adoption. You can have the people who want to do the normal adoption, going to the orphanage and picking out the little pretty child that they want to get. That is okay and it is not going to be stopped, but you must look at it from a practical point of view. I see the gentlemen on the Government side understanding the position that I am taking. *[Laughter]*

We have traversed a lot of this already, and I want to compliment the Minister of Social Development for making a very nice and brief presentation, but I do not believe that he should have made reference to the fact that we have done some of this work last night. That left me open to follow off from last night as I did. Anyway, with my apologies for taking so much of your good time, I hope that what I have said this evening does not fall on deaf ears again. I thank you very much for your kind attention. *[Desk thumping]*

**The Minister of Social Development (Hon. Dr. Amery Browne):** Mr. President, I wish to thank all those who have contributed to this brief, yet very stimulating and invigorating debate. It is said that to steer the ship of state, one must have vision and foresight. It is unfortunate that some have yielded to the temptation of spending the last few minutes fixated on the rearview mirror. This is a luxury that is best pursued by passengers and backseat drivers. We have to learn the lessons of the past, and we are learning the lessons of the past. To have stood here and heard repeated points that were already made in related Bills and points that were—*[Crosstalk]* *[Laughter]* Senator, Senator, I gave the honour of attention to Senators on the other side, I beg the same treatment, please. *[Interruption]* Well criticisms were flowing and this is not a criticism, it is just gentle and humble guidance. *[Interruption]*

**8.10 p.m.**

**Sen. Mark:** Well, wrap up—

**Hon. A. Browne:** Well, I would take your suggestion on board, right now. Mr. President, I heard no amendments to the Bill being advanced this evening. Once again, there was some focus on administrative and regulatory issues. Based on this and the fact that there has already been a comprehensive exploration to the relevant considerations, I strongly feel that the best words I can utter at this point, and I see you are already smiling, Mr. President, are, I beg to move.

*Question put and agreed to.*

*Bill accordingly read a second time.*

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

*Senate in committee.*

*Clauses 1 to 29 ordered to stand part of the Bill.*

*Clause 30.*

*Question proposed, That clause 30 stand part of the Bill.*

**Mr. Chairman:** We have an amendment, proposed by the Minister.

**Sen. Annisette-George:** Mr. Chairman, an amendment has been circulated to clause 30:

To delete the words "suitably trained" and to include the word "suitably" before "trained" in the third to last line of that clause.

**Mr. Chairman:** In new section 31:

- (a) delete the words "suitably trained" before the words "to be made";
- (b) insert the word "suitably" before the words "trained in the roles".

*Question put and agreed to.*

*Clause 30, as amended, ordered to stand part of the Bill.*

*Clauses 31 to 35 ordered to stand part of the Bill.*

*Clauses 36 to 40.*

*Question proposed, That clauses 36 to 40 stand part of the Bill.*

**Sen. Dr. Nanan:** Mr. Chairman, I know there is an amendment circulated to insert a new clause, but I just want some clarification, because the debate really starts on clause 37. What is happening is we are dealing with a nursery and definition of nursery and it goes on with respect to licence and so on. I think that is where we have to have discussion, because the Minister made reference to the haphazard approach with respect to the pre-schools and the situation with pre-schools.

**Dr. Browne:** Haphazard?

**Sen. Dr. Nanan:** Before and then you were now coming under the authority to give it some kind of direction. What we are seeing in the amendment that has been circulated is that now you are removing the control and putting it back into the Ministry. So, we need some clarification there because if you are amending there you will have to start from clause 37. That is why I stopped you at clause 37.

**Dr. Browne:** We have not gotten there as yet, but I do not recollect what you are referencing as the premise for your concern in that there was an expression, "there was a haphazard approach in the education system." [*Inaudible*]

**Sen. Dr. Nanan:** The situation with the three to five; remember that particular area? Five years and under, coming under the Education Act and five years and over, primary school. We had a situation with compulsory age here, six years.

**Dr. Browne:** Those were concerns mentioned on your side and as far as I am aware, this is a response to that concern.

**Sen. Dr. Nanan:** We are talking about this response.

**Sen. Annisette-George:** Just as the Minister said, I do not remember any discussion about it being haphazard. What I remember was the discussion, a question of whether there was an overlap and why would you describe a nursery as including children six years and under, when the compulsory age of education was five years. I think that is what the discussion was.

We are not saying that nursery schools go up to the age of six years, but what we are catering for is that there may be six-year-olds at, not nursery schools, at nurseries. Nurseries include a day care centre, so that there may not necessarily be education going on in a nursery facility as defined under the Act.

As I gave an example, let us say for instance, you have a child who would have turned, in say, the month of July, while school is on holidays, six years, but as a working parent you had to make some sort of arrangement for the care of the

child at a facility, education would not be going on there necessarily, but the child is being cared for; you are paying for it. That would be captured by the definition of nursery in this Bill.

**Sen. Dr. Nanan:** My point is, I think this is the amendment; I am discussing the amendment at this point in time, because it is relevant. It says:

"private institutions providing early childhood care and education to children between the ages of three and six years."

I think it should be "three to six" if you are going that way, because I do not think it is going to be three and six, separately.

**Sen. Annisette-George:** Well, what it means is between the ages of three and six or if you want to say three to six; "and" is read as "to" there.

**Sen. Dr. Nanan:** If you are doing that and it comes under the exemption of 52, that means the authority will have no control here.

**Sen. Annisette-George:** We are not talking about the authority, we are really talking about licensing. It is not going to be asked to meet the licensing and registration regime, but once it is private educational institution, catering for those children it will have to meet the requirements of the Ministry of Education.

**Sen. Dr. Nanan:** I was saying, if you look at section 52, this particular amendment is coming after section 52 in the parent Act. So, under section 52, some person from the authority could visit a nursery for inspection purposes. Agreed?

Now you are coming with clause 52A: "Inserting after section 52 the following new section". You are exempting now, public schools, which I agree with, because that would be considered under the Ministry of Education. If you go into this section, which is three to six and you go back to the Education Act, there is a section there on private schools and there is a format for registration of private schools and the Ministry of Education has some control. You are moving the Children's Authority out of this particular area too; you realize that?

**Mrs. Annisette-George:** Yes, because we are saying, as far as the whole applicability of Part V, this section is removed because they will be under the Ministry of Education, just like the public schools. You see it is not just private institutions, but it is providing early childcare and education.

**Sen. Mark:** How do you ensure that the thousands of children between the ages of three to six years; how do we monitor? I do not get the impression that the Ministry of Education will have the infrastructure to do that kind of monitoring



particularly when it comes to the issue of abuse of children, and by you exempting these institutions that are dealing with two areas of activities, essentially: One, they are dealing with early childcare development, and they are also providing education to our children. How do we monitor that those institutions are consistent with our obligations under the Rights of the Child Convention?

**Sen. Annisette-George:** Firstly, Sen. Mark, I do not read this as "and" meaning either/or. I understand this to be a private institution that is doing two things. In terms of the capacity of the Ministry of Education to monitor, the same mechanisms they would be using to monitor the public schools, they would be using to monitor these.

I do not know what supports your evidence that there would be thousands of children, because the bulk of them would come under the early childhood education centres, which again, even though some of them are private, they are monitored by the Ministry of Education.

**Sen. Mark:** But those early childhood centres are not coming on stream in real terms until 2020. I think if you have about 16 Government-driven early childcare centres, you have plenty.

**8.25 p.m.**

**Sen. Mark:** We are talking about a long-term arrangement.

**Sen. Manning:** No, but there are private institutions out there and the ministry has a department and they go out. A new department has been put in place with a good enough structure and the supervisors go out and they look, so they do not have to build, there are agencies there—

**Sen. Mark:** Okay, but would you say from your experience that the Ministry of Education has the infrastructure in place to monitor as how the Children's Authority would be able to monitor children who might be at risk at these nursery schools as it relates to abuse? The question I am raising here, the professionals that would be engaged under the Children's Authority to go and monitor these institutions to ensure that our children are not being abused at these centres, would you say that the Ministry of Education would have these professional people within the division to go and do that piece of work?

**Sen. Manning:** To support the Attorney General, we are talking about two age groups. We are talking zero to three, we are talking three, four and five. For those that are four and five where education is the priority, the Ministry of Education has in place a department for early childhood centres, they are called

early childhood centres, there is a department in place, there are supervisors in that department and they have started going out there to monitor. For the zero to three that is different, that is care and the Ministry of Education does not look after care.

**Sen. Dr. Nanan:** So you are making a distinction between the day-care—

**Sen. Dr. Kernahan:** Yes, you have to make a distinction.

**Sen. Annisette-George:** The defining word is “education”. You all are keeping the emphasis on the age group, but it is not just age group, age group and an educational facility. Whereas, with the nursery, it is age group but day-care. So, you cannot separate the words. The two qualities go together to define the particular kind of institution you are trying to capture. [*Interruption*] I do not know about the educational facilities under—

**Sen. Mark:** Mr. Chairman, it is my view that we are watering down the real intent and purpose of the legislation as it relates to protecting our children. I understand what the Attorney General is saying about the high-grid situation but I really have deep reservations about this particular provision.

**Sen. Annisette-George:** Mr. Chairman, as far as (c), we are prepared to give up (c). This was meant to meet a concern voiced by the Opposition both in the other place and here. [*Interruption*] So, if they think it is unnecessary for the concern that they have, we will take it out.

**Mr. Chairman:** You are talking about the amendment now?

**Sen. Annisette-George:** Mr. Chairman, this is the amendment.

**Sen. Dr. Saith:** Well, we are not there.

**Mr. Chairman:** We are not there yet.

**Sen. Dr. Kernahan:** Mr. Chairman, could we not say then that infant and nursery schools or departmental schools providing education suitable for children between the ages of three and five, because that is the age we said that would be exposed to education per se, and under three is day-care.

**Sen. Mark:** Mr. Chairman, where are we?

**Mr. Chairman:** We are on 37. The conversation was extended to the new clause 45(A), because some of the issues in 45(A) were relevant to 37, but Members should not be discussing specific amendments to 45(A) at this point because we are not there yet, we really are at 37, it is just the concept involved in 45(A).

**Sen. Baptiste-Mc Knight:** Yes, 37 please, Mr. Chairman. I would just like to draw attention to the fact that throughout the Bill and the Act, licensee can be written either with a “c” or an “s” and I think we need to choose one and stick with it.

**Mr. Chairman:** All right, can I put the question now for clauses 36 to 40?

**Sen. Mark:** Yes, Sir.

*Question put and agreed to.*

*Clauses 36 to 40 ordered to stand part of the Bill.*

*Clauses 41 to 47 ordered to stand part of the Bill.*

*New clause 45(A).*

**Sen. Annisette-George:** Mr. Chairman, the Act is amended by inserting after section 52 the following new section:

- (a) Infant and nursery schools or departments of schools providing education suitable for children under the age of five years in the Public School System under section 12(1)(a) of the Education Act;
- (b) Primary schools or primary departments of schools providing education suitable for children of age five to twelve years in the Public School System under section 12(1)(b) of the Education Act; and
- (c) Private institutions providing early childhood care and education to children between the ages of three and six years.”.

*New clause 45A read the first time.*

**Sen. Dr. Charles:** I was just suggesting, as Sen. Dr. Kernahan was saying that—as I understand it—the intention of the amendment is to remove infant and nursery schools for these children because the schools are monitored by the Ministry of Education, but the Ministry of Education does not really monitor anything for children from one to three, it monitors children in what you call nursery schools, three to five. So, if we are trying to remove this because they are being monitored under education then we can only move those that are actually monitored by the Ministry of Education and those are the ones from three to five. So the only way this would make sense is to in fact say between the ages of three and five, because those are the ones actually monitored by the Ministry of Education. Because someone can have a facility for children under two and call it

a school and escape monitoring completely, because under this provision if you leave it like that they would not be monitored, you would take them out, but the Ministry of Education does not monitor them either, because they are two-year-olds. So to capture them to make sure that if it is anyone under three, in other words, whether you call it a school or you call it anything at all it would not be exempted.

**Sen. Anisette-George:** And I would say in the reverse, this way you are sure that something is going to capture them, because remember you have to use the two ingredients.

**Sen. Dr. Charles:** If you take it out completely?

**Sen. Anisette-George:** If you put only three to five, so the Ministry of Education is not monitoring under three, as a fact, because we are saying none exists but it does not mean when you use the words "under five" that if say, some now, say two-year-old, because you now start to have some kind of super intelligent children, so you are offering them educational facilities, education does not use the word in their Act, "three to five", they use "five and under". What will happen is a factual scenario, but if you leave it like this then you could capture anything else that comes on stream, if you now go and put "three to five", you are now leaving a gap. [*Interruption*]

**Sen. Dr. Nanan:** This is why we want everything under the Children's Authority, they have all the power there and we want all the pre-schools in Government as well as private and nurseries to be under the Children's Authority.

**Sen. Anisette-George:** You see, what we tried to do was in keeping with a concern that was expressed by the Opposition, so that if the amendment is causing concern we can drop the entire amendment, because that was our position from inception. Okay? But it is in terms of an undertaking and I know Sen. Mark likes me to keep my undertaking. It is an undertaking I gave down below in the other place and Sen. Mark also raised that undertaking. So, if you do not want it we have no difficulty, we can take out this amendment all together.

**Sen. Mark:** What I would suggest, Mr. Chairman. I think Kamla Persad-Bissessar really piloted this position, I am still grappling with the concept. I would like to suggest for safety, let us go with the amendment as it is, it will go back to the House of Representatives and the Attorney General and Kamla, let them deal with that. I am not too clear on the concept. [*Puts hand in air*] [*Laughter*] Let them deal with that. [*Laughter*] I am not clear on the concept. [*Continuous laughter*]



Annisette-George, Hon. B.

Browne, Hon. M.

Manning, Hon. H.

Piggott, Hon. A.

Narace, Hon. J.

Dick-Forde, Hon. Dr. E.

Gronlund-Nunez, Hon. T.

George, W.

Rogers, L.

Hadeed, G.

Lezama, Miss L.

Melville, Miss J.

Cummings, F.

**8.40 p.m.**

Mark, W.

Nanan, Dr. A.

Sen. Dr. Charles, C.

Kernahan, Dr. J.

Sharma, Miss. C. D.

Rahman, M. F.

Ali, B.

Ramkhelawan, S.

Baptiste-Mc Knight, Mrs. C.

Nicholson-Alfred, Mrs. A.

Sen. Drayton, Mrs. H.

Merhair, Miss G.

Balgobin, Dr. R.

*Question agreed to.*

*Bill accordingly read the third time and passed.*

*Adjournment*

*Wednesday, July 30, 2008*

#### ADJOURNMENT

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, let me thank all my colleagues for the cooperation over the last two days, I think it has certainly been an exercise worth considering.

Mr. President, I beg to move that the Senate do now adjourn to a date to be fixed.

#### Greetings

**Sen. Wade Mark:** Mr. President, before you put the question, may I take this opportunity on behalf of the United National Congress Alliance, to extend to the national community of the Republic of Trinidad and Tobago, greetings, solidarity, and a very positive and happy Emancipation 2008.

We know in the spirit of emancipation, it brings about a common set of purposes or understanding, as it relates to mankind's struggle for equality, for justice and fairness. And I believe that Trinidad and Tobago, whilst we are somewhere away from it, we are trying to get there as quickly as possible.

We hope that all the people of our country would take this opportunity to celebrate this important occasion on August 01. So, on behalf of the United National Congress Alliance, we want to extend on our behalf to the entire national community a happy, peaceful and wonderful Emancipation 2008. [*Desk thumping*]

**Sen. Subhas Ramkhelawan:** Mr. President, on behalf of the Independent Benches, it is my honour and pleasure to bring greetings to the national community on this occasion of Emancipation Day, 2008. It is a time for reflection for the entire national community, and in particular, I want to extend to my brothers and sisters of African descent, that they have a wonderful day, not specifically for this community, but the entire community that we consider carefully the meaning of the liberation of the mind and the spirit on this day of reflection. So, I extend best wishes to the national community in this regard.

Thank you. [*Desk thumping*]

**The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill):** Mr. President, the Government on this occasion wishes in the first instance to associate with the very positive comments made by Sen. Mark and Sen. Ramkhelawan. We wish to associate ourselves with it and also to say to the

*Greetings*  
[SEN. THE HON. C. ENILL]

*Wednesday, July 30, 2008*

people of Trinidad and Tobago, we will continue to strive for those qualities that represent the best in all of us and we wish all, a very safe, prosperous, peaceful and reflective period.

We thank you. [*Desk thumping*]

**Mr. President:** Hon. Senators, on my own behalf and speaking for my family, I would like to bring best wishes to all Senators and their families, as well as to all Members of the Parliament and their families, and in fact, all citizens of the country with regard to Emancipation Day.

Much has been said and I do not think I could say more, other than when we think about it, I think that it is a day that we should be very proud of. We should be very proud of ourselves as citizens, we should be proud of ourselves as a country. We have achieved a great deal and this is a day when we can take pride in ourselves as individuals; we can take pride in our families; we can take pride in our nation and I wish you all a happy and a wonderful day.

*Question put and agreed to.*

*Senate adjourned accordingly.*

*Adjourned at 8.46 p.m.*

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

**WRITTEN ANSWER TO QUESTION**

**HDC Housing Units  
(Olera Heights, San Fernando)**

**83. Sen. Wade Mark** asked the hon. Minister of Planning, Housing and the Environment:

- (a) With respect to the Housing Development Corporation's (HDC) housing units located at Olera Heights, Circular Road, San Fernando, could the Minister provide the Senate with a list of the names and addresses of all the successful applicants drawn by random computer selection;
- (b) the dates on which each successful application was made; and
- (c) the names of the successful applicants who received keys at a public ceremony in May, 2007?



*Written Answer to Question*

*Wednesday, July 30, 2008*

*The following reply was circulated to Members of the Senate:*

**The Minister of Planning, Housing and the Environment (Sen. The Hon. Emily Dick-Forde):** Provision of a list of names and addresses of all successful applicants drawn by random computer selection, the dates on which each successful application was made and the names of successful applicants who received housing units, would undermine the necessary privacy and confidential relationships between the Housing Development Corporation and its clients. It should be noted that the acquisition of houses involves financial transactions which includes beneficiaries' personal financial information. To disclose such information is not in keeping with proper business practices which the Corporation seeks to uphold. Accordingly, the Minister seeks the understanding of the Senate in this matter.