

Leave of Absence

Tuesday, September 09, 2008

SENATE

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The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Dr. Lenny Saith who is out of the country.

A Senator is to be sworn in but he is not here at the moment so we will defer that item on the agenda.

CONDOLENCES

(DR. WAHID ALI)

(MR. MAHADEO JAGMOHAN)

Mr. President: Hon. Senators, during our vacation we had the unfortunate event to experience the passing of a former President of the Senate, Dr. Wahid Ali, who passed away on Saturday, August 09, 2008. If Members would like to express their condolences they may do so.

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, we on this side would like to indicate that Dr. Wahid Ali, the second President of the Senate, 1971—1986, was indeed someone that represented the hopes, the aspirations and the work that we all do when we come into this Chamber and actually participate in the process of moving this country forward.

In this particular regard, we would like to extend our condolences, as Members of this team, on his passing and to wish his family and those whom he has left, all that is the best and the hope that they would understand that his contribution over many years has assisted us in the place that we are currently in today. We would like to express those sentiments to himself and his family from our side.

Sen. Wade Mark: Mr. President, Dr. Abdul Wahid Ali, former President of the Senate, passed away on Saturday, August 09, 2008 at the age of 80 years. He was the founder and first President of the Inter Religious Organization and a leading light in the Muslim community.

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Dr. Ali was a former general secretary of ASJA for over a decade and one of the best orators and speakers, as well as debaters. He served as President-General of the World Assembly of Youth and presided over the Senate with great dignity and decorum.

The grandson of indentured immigrants from India, Dr. Ali was a trained pharmacist and an excellent physician. He shared the public platform with former great souls, such as Anwar Sadat of Egypt, Dr. Martin Luther King Jr., Robert Kennedy, President Julius Nyerere, Sir Alexander Bustamante, Sir Norman Manley and, of course, the late Dr. Eric Williams, among others.

A father of eight children, Dr. Ali served as President of the Senate of Trinidad and Tobago for 15 consecutive years and served as acting President of the Republic on no less than 20 occasions, between 1977 and 1986. He was an outstanding parliamentary presiding officer.

Dr. Ali was a thinker, a statesman, a scholar and philosopher, a man of great wisdom, intellect, humility, sincerity, devotion, commitment and, above all, an obedient servant of the Creator, namely Allah.

He was an individual of great character. He was an outstanding Caribbean and Commonwealth citizen. The recipient of the highest award of the Republic of Trinidad and Tobago, the Trinity Cross, attests to his distinction, dignity and esteem.

On behalf of the United National Congress Alliance, on behalf of the Opposition Senators in this honourable Chamber, may I extend and express profound belated condolences to the bereaved family, friends and associates of this great soul, Dr. Wahid Ali, and may Allah bless and grant him eternal protection and glory and may his great soul rest in peace.

Sen. Prof. Ramesh Deosaran: Mr. President, distinguished Members of this honourable Senate, this is yet another moment of sadness for those in this Chamber and, more particularly, those of us who have known the late Dr. Wahid Ali.

I have had cause in my more youthful days to have several intimate encounters, professionally speaking of course, with Dr. Ali. In fact, I feel proud to say, as I will illustrate very briefly, he has been a mentor to my early career. But in a larger sense, he has also been a mentor to this country, having taken an active part in the post-independence period and perhaps more critically, having intervened at the time when the constitutional democracy of this country was challenged by something called the Black Power Movement.

I say mentorship in order to illustrate the golden character of this outstanding citizen by two examples. In the San Juan/Barataria district we had several organizations; one in particular was a youth organization of which I had the privilege of being president. You are a different kind of President; I was president of a youth organization, but still it carried the responsibility of moulding our members into a higher realm of civic duty, and he was very active with us in moulding our talents in public speaking.

But his humility was unquestionable and very remarkable. I remember one evening we invited him to speak to address us on a certain matter and we expected to begin the meeting at four o'clock in the afternoon at the El Socorro North Government School, and he came promptly at that time, which also illustrates one aspect of his character. But all members, including myself, came five or 10 minutes late and, quite distressed, I approached him; I said: "I am very sorry; I wish to apologize." He stopped me midway and said: "Ramesh, do not worry, these things do happen. I will just walk through the garden of the school until the time has come for me to speak."

That touched me. It has been a memorable experience, a demonstration, in fact, of the gentleman's humility. And it was so, being true of his religion, the Islamic faith, he did live a life of humility but also acquiring the knowledge to form, what is known as the Inter Religious Organization, thereby showing not only compassion but an understanding of other people's way of life, which speaks to one of the aspects of our national motto: tolerance.

He has indeed been very, very tolerant. He has been vice-president of the World Assembly of Youth and in our day when we knew that, that also inspired us, not only to establish youth organizations across the country, but also to see whether we could help the society in those years reach its goals of independence.

Mr. President, Members of the Senate, there are many things we can say about the late Dr. Ali. All of them should become examples of how people ought to live today.

As another illustration, I remember we were preparing for a debate—a national competition—and Sen. Mark is quite correct; he was well known for his articulation. I was a member of the debating team and the other two and I went to Dr. Ali for some guidance on how to speak, how to present our views, how to persuade. He did teach us one or two key techniques which I thought we had followed well and we took part in the competition against, in the finals, the Trinidad Muslim League. I do not think it would do his memory service to recall

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the results of that competition, so I will not, perhaps, tell the Senate how it turned out, but I do remember his willingness to train us in the fine art of debating which, perhaps, we did not develop as much as he did.

So he has left this country, but he has left not only memories but a large amount of public service which I believe we should all remember and follow his example.

On behalf of the Independent Bench, I wish to extend our deepest sympathy to his family and his friends. Thank you very much.

Mr. President: Hon. Senators, former President, Dr. Wahid Ali, was certainly one of the exemplars of our society and certainly one of the exemplars of this honourable Chamber.

He was born in 1928 and was awarded the Trinity Cross in 1977. He led an honourable and distinguished life, one that both he and his family can certainly be proud of, and we who are left to carry on can certainly be proud of having a statesman of his calibre lead us into the murky waters as we walk into the future.

He was a distinguished man. I knew him always to be a gentleman absolutely first and foremost and very much a statesman and I think that we, too, can be proud of his legacy of what he did in his lifetime and what he did in this Chamber.

He was, perhaps, one of the most distinguished presiding officers that we have had. Much has been said and there is little else that I can add other than to say to his wife and family, on behalf of my family and the Members of the Parliament, that we send our deepest sympathies and sorrows. He will be missed but he has set a record for us to follow.

Hon. Senators, I would ask you to stand for a moment of silence.

The Senate stood.

1.45 p.m.

Mr. President: Hon. Senators, we also have to take notice of another former Senator, Sen. Mahadeo Jagmohan, if Senators would like to say a few words.

Sen. Linus Rogers: Mr. President, Mahadeo Jagmohan was born on January 25, 1935 and passed away on August 17, 2008. He was married with four children and lived at Siparia Old Road, Fyzabad. Mr. Jagmohan served as a senator in government and was an Opposition senator for the People's National Movement over the period December 1994 to November 2000.

He was employed in the government service from 1958—1988. He was a trade union activist and served as an industrial relations manager with the National Union of Government and Federated Workers (NUGFW). He was also a former president of the Arya Pratinidhi Sabha APS Denominational Board and an active member of his village council. Mr. Jagmohan was also the labour relations officer of the People's National Movement and was also a very active member of the PNM's general council. He was a very gentle but passionate man who without fear stood for what he believed in and was very willing to use that booming voice of his to get his point across. In addition, he supported the youths by working very well with our youth league.

Mr. Jagmohan passed away at his St. John's Trace, Fyzabad home on Sunday 17 August, after a long fought battle with cancer. Our prayers go out to the family of Mr. Jagmohan and we pray that his soul may rest in peace.

Sen. Wade Mark: Mr. President, former Sen. Mahadeo Jagmohan was a remarkable individual who pulled up himself by his bootstraps. He was a virtual self-made individual and an excellent social and community worker.

He served in this honourable Senate during the period 1994—2000. You will recall that whenever Mahadeo rose to speak in this honourable Senate, the Senate was virtually lit up. Do you know why? Because whenever he rose to speak in this honourable Senate his thought-provoking contributions aroused the interest of the entire Senate and we would be in virtual stitches, whenever Jaggy, as I called him, spoke.

A fiery trade union leader, comrade Jagmohan, as we would call him, was employed in his early years as a daily-rated worker with the Penal Debe Corporation. As a former president of the Southern Division of the NUGFW he began his full-time duties with this great union in the early '70s when he served in the top hierarchy of this organization, in the capacity of deputy president general. He served in that position or office for 10 consecutive years.

Largely self-educated, the late Sen. Jagmohan secured O level and A level passes while serving in the labour movement. He was even poised to pursue an associate degree when he was snatched away.

Sen. Jagmohan represented his trade union at several important international conferences on critical issues, including the Caribbean Basin Initiative (CBI). He was a foremost organizer and mobilizer in his union which resulted whenever there were activities, in terms of protests and demonstrations, you will see

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thousands of workers marching through the streets of this country. He took part like many of us in the movement at the time, in the shut-down of the country on March 08, 1989 dubbed, "Day of Resistance". I am sure that had he been alive today, he would have been involved actively in the national shut-down yesterday in this country.

He served on the Opposition Benches as a PNM Senator and even though we were on different sides of the divide, we were trade unionists first and foremost and we had great respect for each other. The late Sen. Jagmohan served his union for 35 years. He was a fighter, stalwart and warrior for the poor, downtrodden and oppressed.

On behalf of the United National Congress Alliance and my senatorial colleagues on the Opposition Benches, I express our belated condolences to his bereaved family, friends and associates on his untimely passing. May almighty God grant him eternal rest and comfort and may his soul rest in peace.

Thank you.

Sen. Gail Merhair: Mr. President, I rise to join with my colleagues in this honourable Senate and on behalf of my colleagues on the Independent Bench to pay tribute to another outstanding citizen of Trinidad and Tobago, the former Sen. Mahadeo Jagmohan.

In his contribution to Trinidad and Tobago, he was a public servant; religious leader; social and community activist; a trade unionist and served in the Senate for six years. He made a valuable contribution to not only this honourable Senate, but also to his village, trade union, spirituality and certainly, his family.

On behalf of my colleagues on the Independent Bench, I extend condolences to his wife, four children and friends. May his soul rest in peace.

Thank you.

Mr. President: Hon. Senators, I had the good fortune to meet Sen. Jagmohan in 1995, when I was first appointed to the Senate. I have to tell you that it was a distinct pleasure to serve with him in the Senate. He sat next to me on my left and we had great fun. We really had great fun. In the early years he probably taught me a great deal. He taught me, I think, everything that I learned in those early days; everything that I could learn quickly about politics. He was a politician. He really loved politics. He loved his party, country and family. When you met him that is what you got. You met someone who had a joy of life that you do not always meet. He was honest, hard-working, had no lofty ambitions or ideas of himself, but loyal and hard working. As I said, it was great fun sitting next to Jaggy, as we called him.

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He loved to stand and speak and had this booming voice that he did not need a microphone. You could have heard him from outside. He loved to stand and speak and we had great fun. As Sen. Mark said, at times he was very entertaining. He did his job well and we were happy to have him with us. He worked very hard. One of the things about him that stood out was the fact that he was a kind and gentle soul.

Hon. Senators, all we can ask and pray for now is that heaven will be as kind and gentle to his soul, as he was with us when he was alive.

On behalf of my family and Members of Parliament, we will convey to his wife and family our deepest sympathies.

The Senate stood.

SENATOR'S APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Prof. George Maxwell Richards:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: MR. FOSTER CUMMINGS

WHEREAS Senator Dr. Lenny Krishendath Saith is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Prime Minister, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, FOSTER CUMMINGS, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of Senator Dr. Lenny Krishendath Saith.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 9th day of September, 2008.”

Oath of Allegiance

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OATH OF ALLEGIANCE

Mr. Foster Cummings took and subscribed the Oath of Allegiance as required by law.

2.00 p.m.

INCOME TAX (AMDT.) BILL

Bill to amend the Income Tax Act, Chap. 75:01, brought from the House of Representatives [*The Minister in the Ministry of Finance*]; read the first time.

PRISON SERVICE (AMDT.) BILL

Bill to amend the Prison Service Act, Chap. 13:02, brought from the House of Representatives [*The Minister of National Security*]; read the first time.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Siparia Regional Corporation for the year ended September 30, 2000. [*The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Couva/Tabaquite/Talparo Regional Corporation for the year ended September 30, 2002. [*Sen. The Hon. M. Browne*]
3. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Couva/Tabaquite/Talparo Regional Corporation for the year ended September 30, 2003. [*Sen. The Hon. M. Browne*]
4. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Couva/Tabaquite/Talparo Regional Corporation for the year ended September 30, 2004. [*Sen. The Hon. M. Browne*]
5. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Environmental Management Authority Environmental Trust Fund for the year ended September 30, 2007. [*Sen. The Hon. M. Browne*]
6. Annual audited financial statements of Government Human Resource Services Company Limited for the period ended September 30, 2007. [*Sen. The Hon. M. Browne*]

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7. Annual audited financial statements of the National Maintenance Training and Security Company Limited for the years ended December 1999 to December 31, 2006. [*Sen. The Hon. M. Browne*]
8. Annual audited financial statements of Telecommunications Services of Trinidad and Tobago Limited for the year ended March 31, 2008. [*Sen. The Hon. M. Browne*]
9. Report of the Auditor General of the Republic of Trinidad and Tobago on the financial statements of the Agricultural Society of Trinidad and Tobago for the year ended December 31, 1999. [*Sen. The Hon. M. Browne*]
10. MLC Maritime Labour Convention, 2006. [*The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill)*]
11. Joint Declaration on Collaboration towards the Achievement of the Single Economy and Political Integration among Grenada, St. Lucia, St. Vincent and the Grenadines and the Republic of Trinidad and Tobago. [*Sen. The Hon. C. Enill*]

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. President, the official residence of the Prime Minister of Trinidad and Tobago and the Diplomatic Centre are public buildings that are owned by and belong to this country. The Prime Minister, whoever that person may be at any point in time, will reside in that building. The previous building housing the official residence of the Prime Minister of Trinidad and Tobago was built in the 1960s and served one Governor General and two Prime Ministers over a period of 50 years.

With an approximate area of 3,000 square metres, the new official residence for the person holding the office of Prime Minister of this country functions as more than a home. The space allocated to the living quarters is approximately 557 square metres and the remaining area has been earmarked to provide additional meeting and reception areas, including sleeping accommodation for visiting VIPs and dignitaries together with appropriate security and service requirements.

The final cost of the official residence of the Prime Minister was \$41,952,091. The details are listed as follows:

Preliminaries	\$5,655,586
Construction	\$36,296,505
Total	\$41,952,091

Mr. President, the final cost of the Diplomatic Centre was \$63,478,403. The following are those details:

Preliminaries	\$8,557,561
Construction	\$54,920,842
Total	\$63,478,403

Other costs were also incurred for the design of the facilities as well as the construction of external structures. These external structures consist of an army post, a police and security station, transformer rooms, swimming pool and other additional water features. The design costs are as follows:

Design costs	\$10,361,288
External works	\$32,223,351
Total	\$42,584,639

The total construction cost therefore was \$148,015,133.

There is a misconception being promoted that this Diplomatic Centre was constructed exclusively for the use of the Prime Minister of Trinidad and Tobago. Let me assure you that this is not the case. The Diplomatic Centre is for use by the President of our country, the Prime Minister and other state officials. It is available to host international events, diplomatic functions and to accommodate foreign heads of government and dignitaries. Accordingly, the building provides meeting, reception, conference and audiovisual facilities and includes a media briefing area as well as a ballroom and banquet hall.

To date the following functions have been held in the Diplomatic Centre. The functions that have been hosted by the President are as follows:

- National awards;
- Annual dinner in honour of the Heads of Diplomatic Missions accredited to the Republic of Trinidad and Tobago.

Functions hosted by the hon. Prime Minister are as follows:

- Luncheon and caucus to Caricom Heads of Government who were in Trinidad and Tobago to attend the Special Summit on Non-communicable Diseases;
- Official reception for Members of Government following the opening of Parliament;
- Official visit of the Hon. David Thompson, Prime Minister of Barbados. This visit included a special meeting followed by a press conference, all of which were hosted at the Diplomatic Centre;
- Meeting with Dr. the Hon. Ralph Gonzales, Prime Minister of St. Vincent and the Grenadines;
- Meeting in caucus of Heads of Government attending the Thirteenth Special Meeting of the Conference of Heads of Government of the Caribbean Community;
- Official visit of their Royal Highnesses the Prince of Wales and the Duchess of Cornwall—a courtesy call was also paid on the Prime Minister;
- A meeting between the Prime Minister of the Republic of Trinidad and Tobago and the delegation and the Hon. Samuel Bodman, US Secretary of Energy and his delegation;
- A dinner in honour of the Hon. Samuel Bodman, US Secretary of Energy;
- A meeting between the Prime Minister of the Republic of Trinidad and Tobago and delegation and the Chief Executive Officer and delegation from Petrobras, Brazil;
- A meeting between the Prime Minister of the Republic of Trinidad and Tobago and delegation and His Excellency He Guoqiang, Member of the Standing Committee of the Political Bureau of the Central Committee of the Communist Party of the People's Republic of China;

- A dinner in honour of His Excellency He Guoqiang, Member of the Standing Committee of the Political Bureau of the Central Committee of the Communist Party of the People's Republic of China.

Hon. Senators are advised that the cost of building works for the official residence of the Prime Minister and the Diplomatic Centre in the original scope of works remained the same. However, additional external works outside the original scope of the project were undertaken. The cost of these additions amounted to the sum of approximately \$27.3 million. These facilities include an administration building, a multi-vehicle garage, a drivers' lounge for drivers of visiting dignitaries and additional public washrooms, bringing the total cost of the project to \$175.3 million.

Payment of taxes made by Shanghai Construction Group International (Trinidad and Tobago) Limited during the period of the construction of the Prime Minister's residence and Diplomatic Centre were as follows:

Green Fund Levy	\$229,877.41
Value Added Tax up to October 2007, from the records of the Board of Inland Revenue	\$13,176,465.78
Total	\$13,406,343.19

Thank you, Mr. President

Sen. Mark: Would the Minister indicate if there is a cost overrun of over \$28 million on the original price as was indicated by the Prime Minister and several of his colleagues?

Sen. The Hon. M. Browne: Mr. President, I think I was very clear. I said that the building was completed on budget. I did indicate that there were additional works that had not been anticipated at the time of the design which were subsequently done and which amounted to \$27.3 million. That is not an overrun.

Sen. Mark: Mr. President, does the figure given to the Senate represent the full and final cost of the works being done on the Prime Minister's residence and Diplomatic Centre or can we expect further costs?

Sen. The Hon. M. Browne: Mr. President, as far as I know that is the final construction cost, but as you are aware when one moves into a place and undertakes functions, things come up from time to time. That is likely to happen in the future. If Sen. Mark is asking me what the likely costs of those changes are, I cannot at this time say.

Mr. President: Sen. Mark, we only have one minute to do question No. 28.

Sen. Mark: Mr. President, in light of all our rich tributes to our former colleagues, I thought that the hon. Senator would ask that we suspend the relevant Standing Orders to facilitate all the answers they have ready for us today. If he is not prepared to do so, I would ask that you defer the question I am going to ask now to the next sitting.

Sen. Enill: Mr. President, we have quite a number of answers ready and in consideration of that it may be appropriate for us to take them. In those circumstances therefore—

2.15 p.m.

Mr. President: May I suggest that we extend it by 15 minutes, so at least we have a cutoff point.

Question put and agreed to.

**Conduct of the Chief Justice
(Legal Advice Offered on)**

28. Sen. Wade Mark asked the hon. Prime Minister:

- A. Could the Prime Minister make available the official legal advice offered to him by Dr. Lloyd Barnett QC and Mr. Mark Strachan QC from Jamaica and the United Kingdom respectively on which his decision to have the President of the Republic establish a tribunal to investigate the conduct of the Chief Justice?
- B. Could the Prime Minister also provide the Senate with details of the legal costs and fees paid to both Dr. Lloyd Barnett QC and Mr. Mark Strachan QC for the said advice?

The Attorney General (Sen. The Hon. Bridgid Annisette-George): Members of this honourable Senate are advised that the information requested regarding the official legal advice is covered by the client/attorney privilege and, therefore, cannot be disclosed.

Honourable Members of this Senate are advised that the records of the Ministry of the Attorney General have so far revealed that fees in the sum of \$44,310 were paid for legal advice rendered in this matter. Thank you.

Sen. Mark: May I ask the hon. Attorney General if she can indicate to this Senate what were the fees paid to Dr. Lloyd Barnett, Q.C. and Mr. Mark Strachan,

Q. C. separately? Give us that breakdown because that is what was requested in the question.

Sen. The Hon. B. Annisette-George: Consistent with the policy of the Government which was enunciated in this Senate before, giving information with respect to fees paid to persons whose services we retained is considered matters not disclosed under the Freedom of Information Act as personal information of a financial nature. What I would say is that a figure of \$44,310 has been paid so far. That is the figure the records reveal in this matter.

Sen. Mark: Could the Minister indicate whether more legal cost is anticipated? She did indicate “so far”. I want to find out from her whether this means that we have further legal fees to pay or cost to these two QCs in question.

Sen. The Hon. B. Annisette-George: The answer indicates that the records have revealed so far. It does not say so far this is all that has been paid. From the searches of the records, I have so far been able to ascertain only this has been paid.

**Public Transport Service Corporation
(Status of Local Agents for Volvo Buses)**

46. Sen. Wade Mark asked the hon. Minister of Works and Transport:

- (a) With respect to the Volvo manufactured articulated buses owned by the Public Transport Service Corporation, could the hon. Minister inform the Senate who are the local agents for these buses?
- (b) Could the Minister also inform the Senate whether those agents have a workshop and spare parts facility in Trinidad?
- (c) If the answer to (b) is in the affirmative, could the Minister state where this workshop and spare parts facility is located?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. President, the answer to question No. 46 is now not available.

Sen. Mark: May I ask my colleague when he anticipates this answer to be ready; next week, next two weeks, or next 10 years?

Sen. The Hon. C. Enill: No, Mr. President.

Question, by leave, deferred.

**Breakfast Shed
(Details of Repairs Undertaken)**

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

Could the Minister state:

- (i) the total cost of repairs to the breakfast shed since commissioning; and
- (ii) the reason(s) for such repairs being undertaken so soon after the opening of the facility?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): Thank you, Mr. President. The answer to question No. 86 is that the works carried out on the new breakfast shed, which is now called Femmes Du Chalet constituted modification works, remedial works and some minor repairs. The total cost of modification and repairs to the facility since its commissioning is \$439,599. There was no cost for the remedial works because the works required were either under guarantee or were covered under contractual obligations.

The reasons for the modification works at Femmes Du Chalet included, inter alia, the need to redesign the plumbing system due to an initial inappropriately designed plumbing system that did not facilitate the work habits of the owners/operators relative to the washing of pots and heavily greased utensils. This resulted in the following: firstly, a considerable build-up of material in the lines and secondly flooding at the facility. Therefore, modification works were carried out as soon as the problem manifested, to do the following thereby ensuring a hygienic and functional facility: firstly, to redesign the existing plumbing system, the construction and replacement of the grease trap system and finally to supply and install a venting system for the kitchen sinks.

Sen. Rahman: I am wondering whether the Minister is admitting that the design for this building was poor in the first place. Were you aware of what was going on when they were putting up the sort of building that was being erected?

Mr. President: Senator, a supplemental question should be asked to elucidate the answer that was given. That does not even come close to the requirements of the Standing Orders.

**Prime Minister's Residence
(Nature of Works)**

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

- (a) Would the Minister indicate to this Senate whether the works being undertaken at the Prime Minister's residence are repairs, renovations or additions?
- (b) If the works are repairs or renovations, would the Minister inform this Senate of their nature and costs?
- (c) State whether there is one or more than one contractor?
- (d) If the works are additions, would the Minister indicate whether these additions were in the original design?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): With respect to the answer to this question, the information is being sourced from the Office of the Prime Minister and we hope to get it soon, but I cannot say when we would actually be ready with the answer.

Question, by leave, deferred.

**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 Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): This matter was forwarded to the Ministry of Trade and Industry, which is the Ministry with responsibility for this matter.

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

89. Sen. Mohammed Faisal Rahman asked 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?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): Mr. President, although I over-anticipated, the answer to question No. 89 is:

- (a) Construction works on the National Academy for the Performing Arts, which include hotel facilities is ongoing;
- (b) The National Academy for the Performing Arts, Port of Spain is scheduled for completion by September 2009; and
- (c) The details of the project are already in the public domain and are contained in the Vision 2020 Operational Plan 2007 to 2010, which is a public document. The details outlined in that document were: a 1,460-seat hotel; a 59-room hotel; the Performing Arts Academy and auxiliary facilities for the aforementioned three areas.

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

90. Sen. Mohammed Faisal Rahman asked 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 National Security (Sen. The Hon. Martin Joseph): Thank you very much, Mr. President. In response to question No. 90, Hon. Senators are advised that based on ongoing assessments in the Richplain community, it is anticipated that the joint regiment and police exercise currently being conducted will be sustained for as long as is necessary .

In response to (ii), the Ministry of National Security is closely monitoring the situation in the Richplain area and a comprehensive assessment of the situation will be done to determine any further course of action.

**Scarborough Hospital
(Cost of and Site)**

91. Sen. Mohammed Faisal Rahman asked the hon. Minister of Health:

- (a) Would the Minister state the final estimated cost of the Scarborough Hospital?
- (b) Would the Minister also indicate whether the hospital will be completed on the original site or relocated?

The Minister of Health (Sen. The Hon. Jerry Narace): Mr. President, the final estimated cost of the Scarborough Hospital is TT\$ 376.6 million, VAT inclusive. The total cost is disaggregated as follows: TT \$135.3 million, VAT inclusive in respect of construction cost to the former contractor NH (International) Caribbean Limited and TT \$241.3 million, VAT inclusive, in respect of construction cost to the new contractor, China Railway Construction Corporation.

In respect of (b), yes the construction of the Scarborough Hospital would be completed on the original site.

**Pensions
(Raising Eligibility Ceiling)**

92. Sen. Mohammed Faisal Rahman asked the hon. Minister of Social Development:

Would the Minister state whether Government plans to raise the eligibility ceiling for pensions to equal the personal tax allowance?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): The Minister has advised that the question would be answered in two weeks' time.

Question, by leave, deferred.

**Old Age Grant
(Availability to Citizens)**

93. Sen. Mohammed Faisal Rahman asked the hon. Minister of Social Development:

- (a) Could the Minister inform this Senate whether the Government would make Old Age Grant available to citizens by bank transfer as well as through mail?
- (b) Could the Minister also indicate whether the Government would permit life certification to be done by medical certificate for periods of two years, with personal appearance every other year?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): That, likewise, follows the former question. The answer would be ready in two weeks.

Question, by leave, deferred.

**Teachers' Substitute Programme
(Status of)**

100. Sen. Cindy Devika Sharma asked the hon. Minister of Education:

Could the Minister inform the Senate of the current status of the teachers' substitute programme?

The Minister of Education (Hon. Esther Le Gendre): Mr. President, with respect to the question, the status of the Teachers' Substitute Programme is as follows: the Substitute Teachers' Management System (STMS) was piloted on October 31, 2007. Under this system, persons from each of the seven educational districts are invited to apply. They are interviewed and a pool of substitute teachers is created.

The STMS is entirely web-based. To date, 474 persons have applied to the STMS online. Interviews to approve teachers began in November of 2007. To date, 47 per cent or 224 persons have been screened and approved. These substitute teachers are now available to secondary schools in the web-based recruitment system. A further 39 per cent or 184 persons of the total applicants are currently scheduled for interviews as follows: in Caroni district, 48 persons; North/East, 5 persons; Port of Spain and environs, 9 persons; St. George East, 31 persons; South/East, 10; St. Patrick, 25; Tobago, 5; and Victoria, 51; giving a total of 184 persons.

The Ministry embarked on a drive to expedite the rate of interviews during the past July/August vacation period through the involvement of curriculum officers along with HR personnel to form multiple interview panels in the North, Central and South regions of Trinidad. Further interviews are scheduled to be conducted by the end of this month.

The remaining 14 per cent or 66 persons of the total applicants who have been interviewed included those who have either accepted full-time teaching positions, accessed other Government sector engagements or were unsuccessful at the interviews. Barring the anticipated completion of the interview and screening process, there remains an opportunity for teacher substitute applicants in the following subject areas: in relation to CSEC, building technology, woods and theater arts; in the CAPE area, geometrical and mechanical drawing. It should be noted that teachers in the STMS cover 35 out of 37 CSEC subjects and 24 out of 25 CAPE subject areas. The Ministry will re-advertise in the near future in order to attract applicants to accomplish a 100 per cent subject area representation in the programme. Over the period November 2007 to April 2008 of this pilot programme, 14 secondary schools have successfully used the STMS to date and this involved at least 47 substitute teachers being engaged at an average of three call-outs per teacher.

It should be noted that in the six-month period referred to, the programme was rolled out to secondary schools and was limited to planned absences only. In particular, the secondary schools currently involved in the programme are: Barataria Senior Secondary; Bishop Anstey High School; Brazil High School; Chaguanas Secondary School; El Dorado Secondary School; Fyzabad Composite; Naparima Girls' High School; Preysal High School; Princes Town Senior Comprehensive; Sangre Grande Junior Secondary; St. Mary's College; Tranquillity Government Secondary; Vishnu Boys' Hindu College and Woodbrook Secondary School.

2.30 p.m.

To date, all engaged substitute teachers have been paid in accordance with the Ministry's payroll guidelines and stipulations.

Mr. President, as at May 20, 2008 the scope of the Teachers' Substitute Programme was increased from planned absences only to include absences relating to occasional leave, sick leave and maternity leave. We anticipate, therefore, given the wider application of the Substitute Teachers Management System (STMS), secondary school principals would be in a position to bridge absenteeism gaps more effectively from September 2008.

I thank you.

The following questions stood on the Order Paper:

**Sangre Grande Fire Station
(Construction Details)**

101. With respect to the construction of the new Sangre Grande Fire Station, could the hon. Minister of National Security inform the Senate of:

- (i) the overall cost of construction;
- (ii) the expected dates of completion and official opening; and
- (iii) the number of fire engines expected to be housed at the station?

[*Sen. C. D. Sharma*]

**Destruction of Land
(Unauthorized Quarrying Activities)**

103. With respect to the destruction of land through unauthorized quarrying activities, could the hon Minister of Energy and Energy Industries inform the Senate of:

- (i) the existing plans, if any, for reclaiming these lands;
- (ii) the acreage of land already reclaimed by the Ministry;
- (iii) the estimated acreage of lands affected by unauthorized quarrying activities as at July 2008; and
- (iv) the estimated acreage of lands approved by Government for authorized quarrying activities as at July, 2008? [*Sen. C. D. Sharma*]

**Caribbean Airlines
(Fuel Hedge Arrangement)**

104. Could the hon. Minister of Finance inform the Senate of the details of the new fuel hedge arrangement for Caribbean Airlines? [*Sen. W. Mark*]

**Urban Development Company of Trinidad and Tobago
(Port of Spain Waterfront Project)**

105. With respect to the Urban Development Company of Trinidad and Tobago securing US \$375 million funding on the US private placement market to finance the Port of Spain Waterfront Project, could the hon Minister of Planning, Housing and the Environment advise this Senate:

- (i) the number of investors involved;
- (ii) the names of the companies/investors involved;
- (iii) the terms of the loan, inclusive of interest rates, period of the loan, terms of repayment and currency of the loan; and
- (iv) what security or guarantee was provided? [*Sen. W. Mark*]

**UDeCott
(Loan Security)**

106. With respect to the loan secured by UDeCott on the US Market for the Port of Spain Waterfront Project, could the hon. Minister of Planning, Housing and the Environment inform the Senate:

- (i) why was the borrower UDeCott and not the Government of Trinidad and Tobago;
- (ii) what is the net revenue of UDeCott from which repayment instalments can be made; and
- (iii) whether the loan was the subject of several or a single offer of financing and the conditions for accepting the offer? [*Sen. W. Mark*]

Question time having expired, questions 101, 103, 104, 105 and 106 were not dealt with.

WRITTEN ANSWER TO QUESTION

**Hobsons Law Firm
(Details of Services)**

84. Sen. Wade Mark asked the hon. Attorney General:

- (a) Could the Attorney General provide the Senate with the names of the government ministries, state enterprises (fully or partially owned), statutory bodies and/or corporations which have engaged the services of law firm Hobsons during the period January 01, 2006 to May 31, 2008; and
- (b) Could the Attorney General also provide the Senate with a breakdown of all the fees and/or sums of monies paid to the law firm Hobsons by each of the entities that engaged their services?

Vide end of sitting for written answer.

**DEVELOPMENT LOANS ACT
(INCREASE IN BORROWING)**

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. President, I beg to move the following Motion standing in my name:

Whereas it is provided by section 3(1) of the Development Loans Act, that the Government is authorized, inter alia, for the purposes of financing general development in Trinidad and Tobago or repayment of borrowings effected for general development, inter alia, by a statutory authority within the meaning of the Statutory Authorities Act, Chap. 24:01 or by an enterprise that is controlled by or on behalf of the State, from time to time to borrow money externally or internally in a sum or sums not exceeding in the aggregate thirteen thousand million dollars in the currency of Trinidad and Tobago and thereafter such sum in such currency as may from time to time be specified by resolution passed by the Senate and the House of Representatives.

And whereas it is necessary for the Government to borrow further sums of money for the purposes stated in the said section.

Be it resolved that for the purposes stated in the said section, the Government is hereby authorized to borrow money externally or internally in a further sum or sums not exceeding in the aggregate seven thousand million dollars in the currency of Trinidad and Tobago.

Mr. President, by way of recalling, it may be useful to examine or to remember the main provisions of the Development Loans Act. Subsection 3(1) of the Act allows the Government to raise loans on the domestic market or on the foreign market to finance general development in Trinidad and Tobago, or repayment of interim borrowing effected for such general development. The Act also provides for the aggregate borrowing from time to time to be specified by regulations passed by the Senate and the House of Representatives.

Section 4 provides for the Minister to enter into agreement and to determine the form, et cetera, of the bonds administration.

Section 5 is to establish the nature and form of the bonds.

Section 6 establishes the manner and dates of redemptions of the bonds; that is the tenor of the bonds.

Section 7 establishes the arrangements for setting the terms and conditions of the bond under the authority of the Development Loans Act, including principal, interest, redemption premium on the bonds payable and free of taxes, et cetera.

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Section 8 further authorizes the use of fiscal agents to make payments, et cetera, on the bonds.

Mr. President, over the course of time, between 1966 and today's date, there have been several motions and amendments to adjust the borrowing limit—1966, 1968, 1971, 1973, 1976, 1979, 1983, 1987, 1989, 1990, 2000 and, more recently, in 2002 raising the limit from \$10 billion to \$13 billion and at today's date the Motion is to raise it from \$13 billion to \$20 billion.

These changes have taken place in the context of a growing economy and as a result of the defluxion of time and the cost of inflation, whereas borrowing requirements have generally been increased. So, bringing this Motion today is in accordance with practice and in accordance with the specifications and the requirements of the Act.

This bond is clearly used for development objectives. However, I need to point out that in the course of our recent economic growth the requirement for borrowing has been limited. This section of the Act has been used because there was no Treasury Bonds Act therefore borrowings took place during the period 2006 and early 2008 in the absence of the Treasury Bonds Act for purposes of management of liquidity. I say for purposes of management of liquidity because we did enter into the debate to pass the Treasury Bonds Act which took place in July 2008.

The difference between the Treasury Bonds Act and the Development Loans Act is that particular instrument was designed and developed specifically for liquidity management in the face of rising inflation. The Government is conscious of the need to control the inflation variable and has used several instruments in its armoury; it has used the Central Bank instruments to control inflation; and it has used direct reserve requirements.

In the course of the debate on the Treasury Bonds Act, the Independent Senators, in particular, noted that it probably would have been a much better alternative to use direct reserve requirements. We did point out at the time that it was also necessary to sterilize money using Treasury Bonds, because they also acted as an aid to the development of the domestic financial market.

In the absence of that bond or the existence of that bond, which was only passed in July 2008, during the period 2006, in recognition of the changes in the rate of inflation and the need to control the rate of inflation, the Development Loans Act was used as a substitute. It may not have been a good substitute, but it

was used nonetheless as it was necessary to do so. This is to be looked at in the context of the other reserve measures or the other instruments which were used by the Central Bank during that period.

As I indicated under the Treasury Bonds Act, there were several instruments which were available to the Central Bank like the use of the repo rate, the interest rate as well as the use of the reserve requirements. The Central Bank had moved over the last decade to more indirect mechanisms of control, but given the change and the change by reason of the increase in the rate of inflation, it was recognized that it was necessary to use a number of instruments including the repo rate, including the use of reserves and including the Development Loans Act as an interim measure. Therefore, much of the borrowings that have taken place under the Development Loans Act in the last three years have not been for general development. They have been used as a monetary tool. I think I did give that indication the last time I addressed this honourable Senate during the Treasury Bonds Act.

The principal difference between the Treasury Bonds Act and the Development Loans Act is the existence of a limit, and that did engender a large amount of conversation under the Treasury Bonds Act. Why was there a limit under the Treasury Bonds Act and there was no limit under the Development Loans Act? The answer to that was very straightforward as I indicated then, and I wish to reiterate the point at this time.

Under the Treasury Bonds Act, there is no limit because the money is just being used for sterilization purposes. For whatever the arguments may be that we ought not to sterilize money alternatively and that it is a drag on the fiscal finances, by so doing, in as much as we have to pay money for its non-use, one has to recognize as well that the inflation journey is one which we must use very strong measures to control. Having said that and given the fact that money is to be placed in a blocked account under the Treasury Bonds Act, there is no need for a limit.

On the other side of the fence, the Development Loans Act represents money which is to be used for development. It represents money which is to be spent and to be used in pursuit of the general development objectives as stated in the Vision 2020 statement and as stated from time to time in the various budget speeches which establish the Government's investment programme. Therefore, there is a limit which is in accordance with prudence.

What is the Government's borrowing position as at today's date? I think we need to say a little about that in the context of the request for the increase in the

borrowing limit. It is noteworthy that between 1995—2007, the gross public debt as a percentage of GDP has fallen by approximately 50 per cent. In other words, the level of public borrowings, notwithstanding that it has increased, has fallen as a percentage because of the rate of growth in GDP.

As at 1995, the total amount of gross public debt, both central government including contingent liabilities—that is the liabilities for which the State has guaranteed and which would be from either the statutory corporations and/or any other corporations that borrow on behalf of the State—the total public debt amounted to \$18.1 billion in 1995. In the year 2000, it amounted to \$26.4 billion and at the end of 2007 it amounted to approximately \$33.9 billion.

The good news is on the other side of the fence. The gross public debt is a percentage of GDP and it has roughly fallen over the same period from approximately 57.5 per cent of GDP. In 2000 that figure was down to 51.3 per cent; and in 2007 that figure was down to 25.7 per cent. This number is to be viewed in the context of less developed countries or countries which have a similar size where the borrowing percentage as a percentage of GDP fluctuates up to somewhere in the region of 60 per cent.

In the case of the United States of America and the more developed countries, the OECD group of countries, I would say that number bears little relation to what their total debt is as a percentage of GDP. In actual fact, it is several multiples of GDP. In the case of the United States of America, I think it is at least twice times the GDP as the total amount of the debt outstanding.

Of interest, and I think it also needs to be said in the context to establish what the relationship to prudence is: What is the Government's debt service ratio? Those numbers are to be found in the annual statistics. They are not stated in the *Review of the Economy* but some interpretation of the numbers would give you what the debt service ratio is. The debt service ratio between 2001—2007 as a percentage of GDP is as follows.

In 2001, the debt service ratio amounted to 19 per cent; in 2002, 17.8 per cent; in 2003, 14.6 per cent; in 2004, 10.8 per cent; in 2005, 8.5 per cent; in 2006, 6.9 per cent and in 2007, 5.9 per cent.

So, notwithstanding the fact that the absolute level of public debt—this includes the central government debt as well as all contingent debt and both numbers—stands at 25 per cent of GDP. The debt service ratio or the ratio of the Government's revenues required to service that debt now stands at 5.9 per cent.

The forecast number for 2008 says that debt service ratio would be about 6 per cent. That is what the number looks like. So, as a percentage, the total debt service ratio and the ratio of Government's debts to GDP is prudent, reasonable and falls well within international accepted numbers.

Why would this money be required? As I indicated at the beginning of my presentation, in the last three years the Development Loans Act and the proceeds of the Development Loans Act were used as a liquidity device to act as a brake and to reduce the amount of money in circulation by placing those funds in a blocked account. The total amount issued amounts to approximately \$4 billion. During that time, the total balance outstanding under the Development Loans Act as at the end of April amounted to \$11.8 billion.

2.45 p.m.

Therefore, approximately one-third of the total amount outstanding has been used for liquidity management in the absence of the Treasury Bonds. Now that the Treasury Bonds Act is in position, there is no longer the need to use the borrowings under the Development Loans Act for that particular purpose. Notwithstanding the \$4 billion, which was borrowed under the rubric of liquidity management, under the Development Loans Act, it will remain in a blocked account and will not be used for the purposes of general expenditure. It is therefore necessary given the fact that the total amount outstanding now amounts to \$11.8 billion, that the total borrowing capacity under this particular Act be increased to the order of \$20 billion.

What will this money be used for? During the course of the year, there have been several announcements with regard to infrastructure development programmes. Those infrastructure development programmes are capacity building measures to relieve pressure on an overburdened infrastructure system. There have been calls—and mirrored several times in the questions to Ministers in this Senate—that the water and the provision of water services is inadequate.

A statement was made in this House by the Minister of Public Utilities outlining a development programme, which included inter alia, the development of a new wastewater treatment plant, the development and construction of new desalination plants, the construction of a new distribution system, as well as a number of other initiatives including the creation of new dams. The total projected expenditure of that particular infrastructure area, over a five-year period, amounted to approximately \$10 billion as announced; that is what the plan

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is. Of course, given the changes that can take place in terms of the refinement, the physical and engineering drawings, and other things that would be required to be done, that number can change, but that is the estimate at this stage.

Also, before us and announced in other budget speeches, would have been the implementation of a rapid rail transit, for which the interim feasibility study and design capacities have already gone out to tender. I think that the original estimate for that particular programme, in the first instance, in the first phase was approximately \$5 billion. The Minister of Works and Transport has also made a number of statements with regard to the need to make certain changes, which will alleviate the present difficulty in our road transport system, and also open up the country to allow for development of areas, which are now considered to be underdeveloped.

Those expenditures are quite considerable and not the least of which is that we need to continually increase our electricity infrastructure to allow for the growth of new demand, as predicated by the use of new electronic devices, and the least of which, being the changes which are brought in terms of our IT system, as well as additional industrial development.

Those four items together represent a considerable volume of expenditure, which notwithstanding Trinidad's largesse and the strengths of the current economy, as well as its tax base, cannot all be financed out of cash flow. It will therefore be necessary to tap not merely the local market, but international markets as well to ensure that the necessary finances are available to provide the financing arrangements to ensure that these infrastructural works take place.

Of course, I have also left out, and which should not be forgotten, the substantial sums of money that are planned and are currently being expended in terms of improving our housing stock as well as the agricultural development of Caroni lands, which are other capacity building measures, which are necessary given the rise in food prices.

Therefore, Mr. President, I wish to recommend to this honourable Senate that the Motion to increase the borrowing limit under the Development Loans Act, to finance additional development works, be supported and be passed.

I beg to move.

Question proposed.

Sen. Wade Mark: Thank you very much. Mr. President, I listened very attentively to the hon. Minister's presentation as it relates to the present Motion to increase the authorized ceiling by an aggregate of \$7 billion, increasing it from \$13 billion to \$20 billion.

I need to get some clarification before I really get into my substantive contribution. Like the hon. Minister, I have before me the Development Loans Act, and this Act under section 3(1) specifically identifies the purpose of the development loans. I see in section 3(1) that it is to finance general development in Trinidad and Tobago; it is to repay borrowings effected for such general development, and it is for the repayment of borrowings effected for general development and by a statutory authority within the Act, that is the Statutory Authorities Act, by an enterprise that is controlled by or on behalf of the State or the University of the West Indies.

Nowhere in this Act have I seen a provision that speaks to the issue of the Development Loans Act being used as a tool for liquidity management in this economy and in this country. Therefore, we on this side are very concerned about the illegality and the illegal conduct of this Government in utilizing measures that are not in fact designed to achieve measures that were never in the first instance, intended.

So, we are not happy from the very outset of this debate with the feeble and miserable explanation being given by this hon. Minister in the Ministry of Finance, by simply telling us, you know it may not have been a good substitute, but we had to use it. You cannot be treating the laws of this country in such a cavalier fashion. Mr. President, you are aware that there is in fact the Treasury Notes Act; there is something called the Treasury Bills Act and the latest one in the arsenal, allowed by the Central Bank, to engage in what is called open market operations, is called the Treasury Bonds Act.

In the case of the two former Acts, there are limitations to these measures, and in the case of the Treasury Notes Act, I have before me, Legal Notice No. 25, which allowed and which was assented to in this House on January 28, 2003, and which for instance, the Parliament agreed to increase the aggregate amount under this measure by some \$3 billion; this is under the Treasury Notes Act.

Then we come to the Treasury Bills Act, and there is another Legal Notice, No. 26, that authorizes the Parliament or the Central Bank, through the Minister of Finance, to have in its arsenal a sum of \$5 billion in order to deal with further open market operations.

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Here it is we have a limit of \$5 billion under the Treasury Bills Act and we have an increase of \$3 billion under the Treasury Notes Act, but we did not get from the hon. Minister of Finance whether these particular limits were exhausted, because after 2003 they did not come back to the Parliament—from my research—for further increases in the borrowing limits under the Treasury Notes and the Treasury Bills Acts.

We are concerned that this Government can simply come here today and tell this Parliament that they want to increase the limit or the ceiling under the Development Loans Act from a grand total of \$13 billion to \$20 billion. So, you want an increase of \$7 billion, but you have not explained to this honourable Senate why the Treasury Notes Act and the Treasury Bills Act were not utilized to deal with the moral hazard created by the Government, as it relates to the inflationary pressures that this economy is undergoing and experiencing today.

What we were told in a very shabby and slipshod fashion and manner is that over the last few years, this Government has illegally violated the Development Loans Act and they have utilized the Development Loans Act in a manner that was never designed. The Development Loans Act was never designed to be utilized as a tool for liquidity management in the system, but this Government is careless; this Government is lawless; this Government does not care and they do whatever they want and when they want. They come to the Parliament and they believe that they will get the majority, because as far as they are concerned, we in this Parliament are a bunch of puppets, and they will get whatever they want, whenever they want, so they do whatever they like. How can the Government explain to this Parliament this lawless behaviour?

3.00 p.m.

Look the Act is here, it is Chap. 71:04. It says nothing about using the Development Loans Act as a tool for liquidity management in the system, but we are being told by the hon. Minister—I have what is called “information memorandum”. The latest one was dated July 02, 2008 where the Government issued a bond for \$1,000 million at a coupon rate of 8.25 per cent, and again, we understand that it was oversubscribed by \$800 million. So they went for \$1,000 million and they ended up with \$1.8 billion. But do you know that it was gotten, obtained or secured under the Development Loans Act? And this was on July 02, 2008.

I believe that the Government is sending different signals. The contribution of one particular colleague of yours in the other place dealt exclusively with the

Development Loans Act being used as a tool for liquidity management. Your very Minister of Finance in the other place argued that this particular measure is going to be used as a tool for liquidity management to deal with the inflationary matters or pressures, and later on she had a change of heart. So it does not appear that the Government of this country knows what it is doing.

We have the hon. Minister in the Ministry of Finance coming here today and saying, listen, the real purpose of this Act is for development, and the reason we are coming here today is because we have broken the law. He did not say so, but he should have told the country and apologized, that you have broken the law and the law was never designed for what you have allowed under the present situation that we are dealing with. I see one for \$1,000 million as I said on July 02, 2008.

Sen. Browne: Will the hon. Senator give way?

Sen. W. Mark: Then I see another one—you would hold on, when I am through, you would hold on.

Sen. Browne: Hon. Senator.

Sen. W. Mark: You would hold on, just a second.

Sen. Browne: Hon. Senator, I did not break the law.

Sen. W. Mark: You did not—in other words, Mr. President, the spirit, the letter and the intent of the law have been violated.

Sen. Browne: No, no.

Sen. W. Mark: If you have not broken the law directly, the letter, the spirit and the intent have been injured as far as I am concerned. [*Laughter*]

Sen. Browne: Mr. President, let me just clarify for the purpose of the Senator, and thank you very much, Sen. Mark for giving me the opportunity to clarify this matter and thank you for giving way.

The law has not been broken nor has it been violated, nor injured, nor in any way damaged, compromised or otherwise. [*Laughter*] The law is for the general development of the economy of Trinidad and Tobago. It has been clearly articulated in this Senate as it has been clearly articulated by any of the economic pronouncements made by other commentators elsewhere, that one of the most damaging possibilities that could take place is for the economy to become destabilized by the existence of a high and rising rate of inflation. In full

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appreciation of that fact and in the absence of instruments which were able to adequately address the demands of the investing public, notwithstanding the fact that there were available limits under the business of the Treasury Bills or under the business of Treasury Notes, the tenor or the term of those Treasury Notes was not sufficient to meet demand. It is similar to the different sorts of denominations that we carry in our pockets. We have \$100 bills, we have \$50 bills, we have \$20 bills, \$10, fives and ones and we use them for different things. You hardly will pull out a \$100 bill to pay for an item that costs \$2. For a similar position the tenor of the instruments under the Treasury Notes and the Treasury Bills were inadequate as mechanisms for mopping up liquidity. Thank you, Mr. President.

Sen. W. Mark: Mr. President, the hon. Minister again has attempted to justify what we consider to be an act that is wrong. I have been in this Parliament for the last 17 years and I have never seen any previous administration utilize the Development Loans Act for purposes of liquidity management.

Sen. Dr. Dick-Forde: But that does not make it wrong.

Sen. W. Mark: No, the point I am making is that the Government has created a crisis—[*Interruption*]

Hon. Senator: By developing the country?

Sen. W. Mark:— in developing the country? What is development for the Government?

Where is the development taking place? How are people experiencing this development in real terms?

Sen. Browne: What school does your son go to?

Sen. W. Mark: I do not, like you, have one as yet. [*Laughter*]

So, as far as we are concerned on this side, this Government is speaking to the issue of inflation. The rationale that is being advanced here today is that the reason they had to utilize these particular measures under the Development Loans Act is to deal with the crushing effect of the inflationary spiral that we have been experiencing over the last three to four years. We are now at 11.9 per cent or thereabouts—

Hon. Senator: The sky would not fall.

Sen. W. Mark:—and the sky would not fall. CMMB—I did not say so, these are the money market people—are predicting that the rate that we are going, we would be ending up between 13 and 15 per cent in the next, maybe, year or two.

Mr. President, I would like to indicate that unless this Government change course and put this economy under some direction, because right now the economy is adrift in this country, there is every possibility that we are going to experience a higher rate of inflation in this country. I would not go as far as the CMMB and say that by the end of this year you may have a 13 to 15 per cent rate, but, certainly, at the rate that the Government is spending we may end up over the next three years between 13 and 15 per cent, if you do not mash brakes on this particular course that you have now decided to travel.

So the inflationary rate is Government induced. Government is inducing poverty in this country, because of its reckless and irresponsible approach to development. The Government of this country is doing everything in its power—and over the last few years what have we witnessed? We have witnessed a decline in the net economic welfare of the citizens of this country. Why do you think that people had to stay at home yesterday? Why do you think that for instance the trade union movement has taken that action? Do you think they want to do it because they like to do it? No! They are doing it because the bite is there. They are seeing where the Government is not doing anything seriously about inflation.

Imagine this Government in its 2007/2008 budget told this country that by the end of 2007—last year, they had targeted inflation at around 7 per cent or thereabout, and they said by the end of 2008 inflation would be 6 per cent. We are now coming to the end of the 2008 fiscal year and inflation is 11.9 per cent and all indicators and indications are, at the rate that the Government is going, inflation will go beyond 11.9 per cent before the end of the financial year.

So, you have a situation where the Government is like a group of arsonists—arson—where for instance the Governor of the Central Bank is attempting to out the fires they have lit under this economy. As the Governor of the Central Bank uses his various monetary tools, which have now been exhausted, to out the economic fires that the Government of this country is fanning and setting, as the Governor of the Central Bank seeks to out economic fires, the arsonists are pouring kerosene and gasoline on the fire in this country. Therefore, the Government of this country must take full responsibility for the inflationary madness that we are experiencing in this country at this time, and there is no light at the end of the tunnel.

I want to predict, this measure, although they have the Treasury Bonds Act which is now limitless, there is no ceiling, and they sought to justify why there must be no ceiling; there is every likelihood that this Government is going to

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continue along its merry way. There is a collision between the Central Bank and the central government. There is a collision between monetary policy and fiscal policy. Where there is supposed to be complementarity and harmony between fiscal policy and monetary policy in this country, what you have is a collision, and I feel sorry for the Governor of the Central Bank. In every monetary report from 2006 to the present time, he has been appealing to this Government to exercise fiscal restraint: Stop engaging in excessive spending; reduce the non-energy fiscal deficit from your 17 per cent or thereabout to under 10 per cent.

Instead of that, what you have taking place, the Government continues to sell US currency to the Central Bank every year and they flood the market and the economy with more and more TT dollars, and that is one of the basic reasons for the inflationary rage that we have in this country. And unless and until the Government decides to pull back, to “back-back”, to reflect, to pause and to take stock—I see no hope in this country insofar as the poor and the oppressed are concerned.

We talk about inflation as the hon. Minister has talked about it in the context of this Development Loans Motion that we have before us; we talk about it, but do we feel it? Do we understand it? Do we understand how poor people experience the inflationary rage in this country? Do you understand how poor people who are living on \$665 a month in this country can manage with inflation at 12 per cent? How can they manage? How can a minimum wage worker getting \$9 an hour manage on an inflationary rate of 12 per cent? Really, if we want to deal with the quality of life of our people, and if the Government is serious about development in this country—genuine people development, not skyscrapers, not monuments and monstrosities in the city, but genuine development—it will focus on the people, it will deal with housing; it will deal with education, it will deal with—

Sen. Dr. Dick-Forde: How many more houses do you want us to build?

Sen. W. Mark: Well the housing that you have today, and I want to bring it to the attention of this country right now as you talk about that. The time has come for an investigation into the HDC. There is a girl called Abigail Cox—

Sen. Joseph: What are you calling people's name for?

Sen. W. Mark: I am calling her name because she is a director on this NHA board and I have evidence that that lady who works out of the San Fernando East constituency office of the Prime Minister is on the take.

3.15 p.m.

If you want an HDC house, you can go to the San Fernando East office and meet a lady called Abigail Cox. *[Interruption]*

Sen. Joseph: Mr. President, on a point of order. I think he is calling people's name in the Parliament, accusing somebody about being on the take.

Mr. President: Apart from anything else, I do not see how it is relevant to the particular Motion in front of us. I think you should move on.

Sen. W. Mark: No, there is an issue that was raised about housing here. Maybe you did not hear, but I have taken copious notes of housing.

Mr. President: Senator, please do not debate my ruling. Senator, be careful, let us not go there. I do not think that it is relevant. I do not think that it is appropriate, so please, press on.

Sen. W. Mark: Mr. President, when we talk about the net economic welfare—because the Government has “cocoa in de sun and it fraid the heat”. I want to tell you something, you might not get it here, but you would get it outside too. You may not take it here, but you would take it outside.

How can we talk about development when the ordinary people are starving in this country? How can we talk about development when the poverty rate in this country according to the Government is 17 per cent, which represents over 250,000 people out of 1.3 million people in this country? The lowest rate that we have ever reached in this country was under the UNC and that is in the records of the United Nations.

Sen. Annisette-George: *[Inaudible]*

Sen. W. Mark: “You doh ask me about nothing because you doh give nothing.” You are a secret order now, no information. But you would not last forever. When I say you, Mr. President, the hon. Attorney General and that bunch across there. The masses are getting fed up of you. The day of reckoning is near for you. Continue!

Mr. President, I argued earlier that the whole issue of new borrowings—how are these borrowings going to improve the quality of life of the people of this country? In 2003, according to my information, this Government borrowed \$3 billion. The limit was increased from \$10 billion to \$13 billion and now it has gone from \$13 billion to \$20 billion. What has happened during the period 2003

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to the present time when it came for more? Nothing has happened in terms of the real increase or improvement in the quality of life of the people of this country. Murders continue to rise under this regime. I think it is close to 350 already.

The quality of life of people has collapsed. Dengue is no longer an outbreak according to the Minister of Health. No longer is there an outbreak of dengue fever in this country, even though Sasha Bickram is now dead. So where is this quality of life we are talking about? When it rains, it is flood in this country; and we are talking about infrastructure. We are going to allocate money for infrastructural development, but have we not done that before? Do we not have in this Public Accounts of Trinidad and Tobago financial report for 2007 by the Auditor General—in the Infrastructure Development Fund, did you not draw down \$4 billion according to this report in 2007? What did you do with the \$4 billion that you drew down?

This is the most concentrated bunch of incompetent Ministers this country has ever seen! They have mismanaged this economy and you are coming here for what? Seven billion dollars? To do what? To allow more murders to take place; to allow more kidnappings to take place; to allow more of our children to die from dengue; to allow every time rain falls, people's homes to be washed away? Is that what you want this \$7 billion for, or do you want that money to give to Jamaica, Cuba and other countries? I have no problem with giving anybody money, but fix your house first. Fix your people's business, those who are suffering and bring relief.

This Prime Minister used a private jet on a jaunt to the Caribbean; visited several countries or territories in this Caribbean, promoting a pipe dream called "Political Integration", and up to this time this hon. Prime Minister of ours has not taken a helicopter ride over those areas that were flooded. He has not expressed sympathy to the families of anyone who has lost belongings and other household belongings.

Today, we are debating development loans and we are saying that we want \$7 billion to deal with matters discussed or described earlier, like infrastructural development projects, broad issues and water services. He talked about water treatment and desalination plants and it is the same plants for which they had attacked and condemned the UNC. They are now embracing desalination plants and saying that it would cost about \$10 billion. That is what you said you want to do, but when is this going to happen? We are in the year 2008 and citizens of this country cannot get a 24-hour supply of water. This regime has been in power for

almost 40 years now and they have not been able to supply this country with a reliable supply of water 24 hours a day. You want what? Ten billion dollars you said is going to be part of this project or part of your development thrust and that is why you want this \$7 billion. Lot of “ol’ talk.”

What did you go on to deal with? The implementation of a rapid rail transit system. What would it cost? At one time it was \$10 billion; the next time it was \$15 billion; and the next time it was \$20 billion. We do not know what is the cost of this so-called rapid rail and you are all in bed with some of the most corrupt organizations and transnational corporations that are involved in this rapid rail. We will say more about that. I want to know why I must give this Government more money. What is the reason? Why must I vote and support this measure?

They said that they want money for electricity infrastructure. I understand that they are building a plant in a place called Union, La Brea and they are putting out hundreds of millions of dollars to build this plant. To do what? Build an Alutrint smelter plant. That is what they want the money for. Do you know where I read that we are borrowing \$400 million from the Chinese for a plant? In a United States newspaper. The Government did not see it fit to tell this country that it was borrowing US \$400 million from the Chinese to build the Alutrint plant down in La Brea. I had to read that in the foreign press.

I would like the hon. Minister to tell us. He talks about the debt profile of this country, let us be told what is the real debt profile of this country. We talk about contingencies liabilities, guaranteed and non-guaranteed loans, is the Government hiding figures from the country? This Vosper Thornycroft \$2 billion for three offshore patrol vehicles; we will call for a forensic enquiry into that whole operation because that same company and that same British Government recently was involved in a corrupt deal with the Saudis in terms of a defence contract.

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

Mr. Vice-President, if we go to this particular Public Accounts of the Republic of Trinidad and Tobago for the financial year 2007, we would see according to the Auditor General in paragraph 34, the total public debt: local loans, \$12.8 billion; external loans, \$8.6 billion; the total is \$21.5 billion and that was at the end of September 30, 2007. This Government is famous for off-balance sheet financing, and we are told by the Auditor General that off balance sheet financing, total \$29.9 billion as at the end of September 2007, made up of loans or credit guaranteed by the Government of Trinidad and Tobago; letters of comfort, promissory notes and open market operations.

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Mr. President, let me explain to you the tax burden that this Government is placing and hoisting on the shoulders of the population. Every time we go in the open market to mop up excess liquidity in the system through open market operations, the taxpayers of this country pay a huge cost for Government's failure and refusal to slow down on the rate of its development to reprioritize or replace its development thrust. Therefore, what we have under open market operations, treasury notes and bills—to show you the delinquency of this Government, in 2003, it was \$2.2 billion in interest we had to pay.

Every time you buy a bond when it is issued, at 8.25 coupon rate, that is your interest. If you put out \$10 million or \$50 million at 8.25 per cent, who do you think would pay for that? It is the taxpayers of this country. So, we move through open market operations from \$2.2 billion at the end of 2003, to \$9.2 billion at the end of 2007. Now, look at this humongous increase in the interest to revenue burden that our people are being called upon to bear. The Government's incompetence is like arsonists, throwing oil, gas and kerosene on the economic fires that the Central Bank Governor is seeking to out. We have to pay almost \$10 billion in interest, for Government's failure, refusal, incompetence and corruption.

Do you know what this \$10 billion could have done for the poor people of this country? Mr. Vice-President, this \$10 billion could have gone a long way in helping farmers of this country, who want the Government to subsidize fertilizers which is now US \$700 and US \$800 a tonne, I understand. How can farmers provide food security for this nation when they are not getting subsidized? Do you know what this Government is doing?

3.30 p.m.

This Government is subsidizing big business, because 98 per cent of these bonds are taken up by institutional investors. [*Interruption*] Whether it is pension funds or otherwise, it is taken up by institutional investors. The point I am making is that there is an opportunity cost involved here when you take this \$10 billion and you give it out as interest that you could have done otherwise with, if you were prudent in your management conduct and behaviour. Mr. Vice-President, Trinidad and Tobago could have been better off today with that \$10 billion or \$5 billion; but this is how this Government operates; this is how they conduct their affairs.

When we check open market operations, from \$2.2 billion, at the end of 2003, to \$9.2 billion at the end of 2007—and it is rising. I just saw in the newspapers that \$1,000 million was issued and it was oversubscribed to the tune of \$1.8 billion.

Sen. Browne: That number is not interest payments.

Sen. W. Mark: If it is not, you just tell this honourable Parliament, when you rise to speak, how much interest we have to pay on this \$10 billion in open market operations, between the years 2003 to the present time. Tell the country how much interest it is costing us, because there is a cost and there is a price. The total debt, according to these accounts I have before me, as at the end of September 2007, amounted to \$51.368 billion. In financial year 2007, the total off balance sheet financing and public debt exceeded our revenue by 26 per cent. [Interruption]

Sen. Browne: The public debt is \$37.3 billion.

Sen. W. Mark: I am quoting from the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2007 by the Auditor General. The Auditor General is telling the whole world that the total public debt of this country, including off sheet financing, is \$51.4 billion. That is what the Auditor General is saying. Are you denying this Auditor General's report? Are you saying that it is not \$51 billion in total?

Sen. Browne: The gross public debt is \$37.4 billion as at the end of September—

Sen. W. Mark: I am just quoting from the report that is before me.

[MR. PRESIDENT *in the Chair*]

We are concerned about this, in giving this Government more leeway to borrow. There are no systems of accountability under this regime. The White Paper on the procurement regime has gone into cold storage. They have given Ken Julien, the czar of the energy sector, an open cheque, along with Calder Hart, and they could spend what they want and what they like.

Mr. President, would you believe that a project that was costing \$350 million under eTeck, has now gone to \$840 million, an increase of almost \$500 million? That is why you want to get an increase in your loan ceiling, from \$13 billion to \$20 billion, a \$7 billion increase, to allow who? Calder Hart and the czar of energy to just write moneys when they want and how they want, and there is no accountability?

The Tarouba Stadium, over \$1 billion in cost overruns; it started at \$163 million, today it is almost \$1 billion. That is why you want this money? You want us to support this measure, to give you more money so you could engage in

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more corruption, and there is no accountability, there is no transparency? You gave away \$45 million in scholarships and you refuse to tell this country if it is your party family, your party friends or citizens of this country. [*Interruption*]

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

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

Question put and agreed to.

Sen. W. Mark: Mr. President, we cannot support a measure that is going to result in more money going into the University of Trinidad and Tobago (UTT), a corrupt body; no accountability. [*Crosstalk*] You circulated a document here. [*Interruption*]

Sen. Browne: It was laid in this House, and you are saying no accountability?

Sen. W. Mark: You have not referred that document to the Public Accounts (Enterprises) Committee. The hon. Minister got up here and said that document was to be circulated just for information. You have an institution taking \$10 billion to \$20 billion of our money, you bring a financial audited statement, but you said that the Parliament could not audit the accounts of the UTT and that you were just informing us. Mr. President, have you ever heard such madness? That is a state enterprise, we are financing that enterprise, and they are circulating the financial audited statements and saying, "That is just for public information." So you have large scale theft taking place, large scale corruption taking place, and we cannot, as the Parliament that approves these moneys through the budget, have any control and any kind of supervision over the UTT. And you want us to increase the loan ceiling from \$13 billion to \$20 billion, so you could give this man a blank cheque again, so you could have more corruption? No, no, no.

Mr. President, \$45 million in scholarships, no accountability. They gave Douglas Mendes over \$10 million. "Dey fraid to come and tell de country dat dey give him \$10 million"; so that is a private party between Douglas Mendes and the Attorney General. They do not want to tell the country; this is a secret Government. This Government does not believe in transparency, openness and accountability. It is about hiding things; that is what they are about.

Then you have this UDeCott. I want to tell you that corruption prevents development. If you are seeking \$7 billion, tell us how that money is going to be

spent. Do not come here and just tell us that you are going to improve housing; that is what he said, "We are going to improve the housing stock; we are going to improve infrastructure for Caroni lands." Uthara Rao spent \$1.2 billion on infrastructural development, and now everything is covered with grass.

All we are getting from the Government are broad statements: rapid rail, water project, electricity infrastructure, additional industrial development; meaningless. It tells us nothing in the Parliament of consequence. How can we support a measure when there is no system of transparency? The award of contracts is very secret, because the Government is afraid to bring into being the new procurement regime.

I have correspondence dated January 06, 2005, from the Ministry of Finance. It is addressed to:

"Prof. Ken S. Julien, Chairman of Evolving TecKnologies and Enterprise Development Company"

It was written by the then Minister in the Ministry of Finance, Christine Sahadeo. This letter indicated, among other things, that a due diligence exercise on Bamboo Networks Limited was conducted by the Ministry of Finance, through a consultant called Dunn and Bradstreet, a particular organization that supplied ICT operations. This hon. Minister, at the time, indicated in this document that:

"the risk predictor for the Company was 1.00 which is 8.5 times above average risk...

there is evidence of three (3) court suits;

the company has two (2) collection records;

payments to suppliers are generally one hundred and twenty (120) days beyond terms, compared to an industry average of fifteen (15)...

the Tangible Net Worth of the Company is negative US \$7.0Mn.

In view of the above, the Ministry of Finance confirms its recommendation that eTecK not invest..."

I want to repeat:

"eTecK not invest in Bamboo Networks Limited.

A copy of the report by Dunn and Bradstreet is enclosed..."

I have it here. Do you know what happened? That was on January 06, 2005.

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In a question that was answered by the former Minister of Trade and Industry, Kenneth Valley, as it related to the following:

"Could the hon. Minister provide this House with a list of the investments made by the Evolving Technologies and Enterprise Development Company Limited (eTeck) for the period January 2005—October 2006?"

Hear what was said to us and the answer given:

"...Bamboo Networks is an international technology solutions provider to a variety of industries with offices in Hong Kong, China, Japan, New York, Singapore and a subsidiary in Trinidad and Tobago. It is engaged in high-level development and software testing. Bamboo is a CMMI, level 5, certified company and provides solutions for clients using proprietary methodologies; eTeck acquired a 19.7 per cent interest in July 2005."

So the then Minister in the Ministry of Finance told Prof. Ken Julien in this letter that based on a due diligence test, "You should not invest taxpayers' money into this Bamboo Networks Company," do you know what Mr. Ken Julien did? He invested \$22 million into the Bamboo Networks Limited operations. That is why you want me to approve this, so that Ken Julien has an open cheque? He does not even listen to the Minister.

Hon. Minister Mariano Browne, this is a lesson for you, because Christine Sahadeo, the former Minister, was sitting right where you were; no, where the hon. Vice-President sits right now. Because she told the czar not to invest in this network, she lost her job. I just want to warn you.

Mr. President, this is what is taking place here. You want us to support this? How can we support a Motion to increase the loan ceiling from \$13 billion to \$20 billion, when we are seeing that you have rampaged? It is a rampaging taking place; it is a field day that these people are having.

I want to advise that there is something called the Education Tower right there on St. Vincent Street; it is a disaster waiting to happen. We have invested \$368 million in that project. Shanghai Construction Company, the same one that completed the Prime Minister's residence for \$176 million, has the contract for that. All the experts have left that project; do you know why? Shanghai Construction is cutting corners, doing shoddy work; that is a disaster waiting to happen.

This Government has condoned the conduct and behaviour of Shanghai Construction Company. That project was supposed to be completed on August 09;

today we are in September and there is no end in sight. Do you know what they are doing? They are putting up what is called curtain walls, without specification and without proper supervision, and against all the good advice coming from Lockwood Greene, Gillespie & Steel and a number of internationally reputable organizations. This Government has condoned the behaviour of Shanghai Construction, and the Calder Hart group at UDeCott has presided over that particular matter.

We cannot, in good conscience, support any measure without a proper procurement policy. We want that in place. We want to get a detailed analysis and assessment of your programmes. You cannot come to a Parliament and ask us to approve a \$9 billion increase in your loan ceiling and not give a detailed analysis of the programmes. What are going to be the returns on these projects?

3.45 p.m.

Mr. President, do you know that right now the energy sector contributes 91 per cent of our country's foreign exchange earnings? Do you know that 56 per cent of the Government's revenue comes from the energy sector? Do you know that almost 45 per cent of our GDP is derived from the energy sector, and only 3.4 per cent of the jobs come from there? That is the record, so the dual economy we have here is resulting in a situation where the non-energy sector is shrinking and the other sector which is the energy sector is expanding. So at the end of 2006/2007, there was a decline in the value of our export via the non-energy sector and the evidence is here to show that it is going down both in absolute and relative terms. So where is the development? Where is the diversification?

Mr. President, when you borrow these kinds of moneys you must be able to tell the country how it is going to help you diversify and transform our economy; instead there is Chinese invasion, and people from El Salvador are coming now. We already have our Caribbean colleagues here with whom I have no problem—free movement of labour, but you know what, while that is taking place Home Construction Limited sent home almost 100 workers and I hear 1,000 more are to go; 900 workers from the Hindu Credit Union have gone home; Hilton Hotel, 250 workers and it goes on and on. And today before I came to this Parliament, the unions were beginning to act up at the Water and Sewerage Authority (WASA) because it is being predicted and rumoured that they are going to have large-scale retrenchment there.

Mr. President, how is this \$7 billion going to benefit us? I am not seeing it. I am saying that what we have witnessed in this country under this PNM regime is a

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virtual disaster. This Government has presided over chaos, mismanagement, inefficiency, large-scale theft and corruption. That is the legacy of the PNM, and when we look at all their programmes and projects, their actions and this so-called Vision 2020, which it stole from Malaysia—it is not even original, the so-called 2020 Vision came from the Malaysian people.

When we look at this Government, I am submitting on behalf of this organization, this great party called the UNC-A, that the best party that ever managed the economy of this country was the United National Congress.

Mr. President, may I tell you that we have assessed that there has been a decline in the net economic welfare of the citizens of this country, which is manifested through worsening inflationary levels which are manifested through the poverty rate in this country. And I do not have to tell you, you as the former Minister of Labour and Co-operatives said it was impossible—and I am not bringing you into the debate, I am just quoting what you said—for a family of four to live on \$1,700 per month. I am advancing that given the cost of living today, nothing less than \$5,000—\$6,000 will do. But there are families of four subsisting on \$1,700. That is the manifestation of the kind of brutality and crushing exploitation that people have to undergo in this country. When we look at old age pension and public assistance recipients it is the same story.

Mr. President, in closing, I would like to indicate to you and this Parliament that the Government to date has not convinced us that there is any need for us to support this measure. It has not provided us with any relevant information to convince us and, therefore, in those circumstances we will not be supporting any Motion to increase any ceiling from to \$13 billion to \$20 billion.

I thank you very much.

Sen. Subhas Ramkhelawan: Thank you, Mr. President. As I join the debate on this Motion, we have heard two diverse views; one from the hon. Minister in the Ministry of Finance and the other from Sen. Wade Mark.

I want to limit my discussion today really to the effectiveness and purposefulness of the increased limit in the Development Loans Act, but I would like to preface it because raising moneys would have to do with its utilization for specific purposes, and the question always is: Are we getting value for money in borrowing and using for these various purposes? I think the national community really wants to know how effectively we are using our resources for the development of this country.

Mr. President, there is often this raging argument amongst economists in particular, as to whether we are experiencing economic growth as opposed to economic development. On the one hand, economic growth will speak to an increase in one's income or what we will call GDP per capita. On the other hand, development will speak to the welfare and the well-being of the citizens overall, and so I think this is a very important question whether we are engendering economic growth as opposed to economic development. And I will answer that question in due course.

Another point that was made was the question of poverty levels. I think hon. Sen. Mark spoke to that figure being \$665, but in reality that figure went back. It was a figure that was being quoted at a time way back based on the statistics in 2005, it is now 2008 and if one were to do some of the arithmetic, when you take persons who are deemed to be poor, most of their moneys are being spent on food, nearly 80 per cent, and not so much on what an economist looks at in terms of core inflation or even in terms of energy utilization.

If one were to seek to translate that figure to 2008 terms, I want to suggest that that poverty figure we talk about, that \$665 per month would be closer to \$1,000 when one looks at food inflation at 20 per cent over the last three years which would be something like 60 per cent on aggregate. So that \$665 as the poverty marker really is not the poverty marker of today if taken in today's terms. So I want to stress that point as I begin this discussion with regard to the Development Loans Act and the increase in its limit.

I would like to suggest to the hon. Minister not being a legal expert myself, not even a good bush lawyer, that if the law was not broken with regard to the Development Loans Act, the behaviour was inappropriate. It was inappropriate because unlike liquidity management tools, unlike the Treasury Bonds Act where the funds can be taken out of the system and according to the Act, put into a blocked account, the Government in this case would actually have to volunteer to put it into a blocked account because there is nothing in the Act which allows them to put it into such an account.

So not being a lawyer like some of my learned colleagues here, I would have to step back and not opine on its legality, but to say that the behaviour in terms of \$4 billion being used for liquidity purposes, that behaviour is wholly inappropriate, but we like to couch things in legalities.

When we speak to the question of the limit, I think that the Minister has made a very strong and, I would say, somewhat reasonable case for the lifting of the limit from \$13 billion to \$20 billion and I say this in the context of financial ratios

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and the adequacy of financial ratios vis-a-vis other similar countries. I had gone on record previously as saying that we should consider ourselves thoroughbreds and not compare ourselves to other players who might be considered—if you will—donkeys in a horse race. So we ought not to compare ourselves with some of those economies that are less buoyant than ours, but when we look around in the Caribbean, we see economies where the debt to GDP is 140 per cent as is the case of Jamaica. Or when we look at some of these smaller islands that we want to integrate with, and I am looking closer to home, we might see their debt to GDP being 100 per cent and from an economic standpoint if you want to create any kind of integration along those lines, it is clear that certain ratios would have to hold; whether it be debt to GDP, whether it be the levels of inflation, whether it be other monetary and economic measures.

So I do not want to address the question of political or economic integration except to say that if that has to happen, there are certain other economic ratios and statistics that would have to hold true, for any kind of integration, economic or otherwise, to really take root.

Back to the question of the limit. I think that when all the factors are taken into account and looking specifically at the ratios, that a limit from \$13 billion to \$20 billion is not unreasonable because even at that level, and given that our GDP is \$114 billion, that our debt to GDP would be within a reasonable range in that it would be less than 20 per cent.

So I do not see that as an unreasonable request from the Government, and also I think what makes sense in this particular case is that the Minister has brought to this honourable Senate an adjustment with a limit which is in accordance with the Development Loans Act. What I find unreasonable is that—and he has raised this question—you establish and pass a Treasury Bonds Act which provides for no limit; it is unlimited.

4.00 p.m.

So what you are saying is that for monetary purposes for which the Treasury Bonds Act was established, you can borrow an unlimited amount without having to come back to this Parliament and, more importantly, without having to come back and account to the people of this country why you are borrowing so much money for value destruction purposes, as I would have said the last time. But here, when you take the Development Loans Act, I think the legislation is more elegant and it is more appropriate in that it sets a limit and it requires the Government to come

back and provide an account to the people of its stewardship for moneys raised, borrowed and utilized.

I think the Minister ought to go back to his notes and take a page—take a leaf—out of this Act which was established way back in 1966—if my recollection is correct—and in these modern times when he brings a Treasury Bonds Act, get it correct and put a limit, because when we aggregate the whole question of Treasury Bonds and the Development Loans Act, what we really have is an unlimited capacity to borrow, because in this case, we have \$20 billion, which I support, by the way, but in the other case, there is no limit.

So if you decided to really pursue what I consider to be inappropriate behaviour and for monetary purposes take loans via the issue of bonds under the Development Loans Act for liquidity management purposes, you have to come back and account that you did raise \$4 billion and you are now reaching the ceiling of the development loans limit. But the only way you have to come back and account with the Treasury Bonds Act is to put a report before the Parliament not to ask for any increased limit, and I find that inappropriate and I find that the Government is acting in a high-handed way that is not consistent with what should be done in a situation like this.

Mr. President, even if we do have limits on both Acts, whether the Treasury Bonds Act or the Development Loans Act, the issue is how does one balance the monetary side with the fiscal side? It is the big issue, because what has been happening over the past several years is a level of—I would call it fiscal indiscipline in terms of expenditure and this is what has effectively overheated the economy.

If I could put an analogy before you, it is like a man who, over the years eats moderately, consumes moderately in a measured way so that he does not have to go on these fad diets. He does not have to—in over-indulging—mash brakes and then come back and say: “Let me go and lose 30 pounds, or 50 pounds or 70 pounds”, as the case may be, had he done the right thing all along, or the appropriate thing all along, in terms of moderate consumption where his body could actually absorb and utilize the energy that he was putting in.

That is the problem that we have in this economy. The problem that we have in this economy is that the economy is unable to absorb on a sustainable basis the extent of injections that are coming in from the fiscal side. So you have the poor Central Bank Governor having to make these statements over and over again and

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he really need not. He probably needs to just put it on a tape-recorded version because he has been saying over and over the same thing and he is getting the same result. Nobody seems to be listening to him.

So I think the issue is more of finding this balance in the economy. I think that the Government is to be commended in its initiative for trying to get the fastest level of economic development or growth for the country, but if we become aware that the absorptive capacity of the economy is not sufficient, then we have to claw back; we need to hold back; we need to reduce the level of expenditure because it is fuelling inflation, that cancer that we are trying to deal with. It is fuelling inflation to a level that is unacceptable and, therefore, if you are doing everything well on the monetary side, then the other end of the see-saw is the fiscal side and you cannot over-extend. So the Government is seeking to go on these fad diets which actually never work, or maybe they work once in a while, and then you see the same person who gets back to that over-consumption.

So that is my appeal to the Government, to seek to find the right balance; seek to find the level at which fiscal injections in the system can be effectively absorbed. So right now, even without this additional borrowing, there is not sufficient absorptive capacity in the system. You are putting too much into the system, and as you put too much into the system, what will be the normal outcome? The normal outcome will not be development; it will be growth with an unacceptable level of inflation. Real benefits are being eroded.

That is the point I would like to make, that, you know, all the numbers are correct in terms of debt to GDP. The direction is correct that debt to GDP is, in fact, falling. The debt service ratio is, in fact, falling; the operation is successful but the patient is dying. That really is the point.

So we need to exercise restraint and as we go into the national budget, I suppose very shortly, I think that must be our mantra: the balance between the absorptive capacity of the economy and the level of fiscal injection on the part of the Government. Because I think I would like to endorse that the Central Bank has done as much as it can do and probably has said as much as it can say, but the message needs to be absorbed as well.

So, on the basis of the Motion that is before us, I am prepared to support the Motion and I think that the other aspects, as I have said before, need to be very carefully addressed so that when we go forward, we go forward not like that man

who is over-indulging and has to go on fad diets, but that we develop the economy in a measured way where absorption can take place properly. I would like to say that if that happens, the other ratios make sense and I would be prepared to support.

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

Sen. Mohammed Faisal Rahman: Mr. President, I rise to make my own comments on the present resolution to raise the debt ceiling to \$20 billion, I think it is. We are in very momentous times, as I speak. I believe we have crossed a very serious line in the cognition of a citizenry regarding the political and economic direction of this country, and I am a little surprised that despite the waters that are over-flooding and threatening to engulf the normal pathways, the Government is continuing with business as usual.

I find this very difficult not to see an amazing similarity in the way this Government conducts the economic affairs of this country with the rise and fall of an institution that has now been taken over by the authorities that have found that the operation of that institution has been conducted in a manner that was totally in full disregard of the consequences of their action.

We have a government that is using the money of the citizens of this country in ways and means that are totally unrelated to the welfare of the country, totally unconcerned with the concerns of the citizenry—and I mean the concerns of all sectors of the citizenry—and proceeding merrily along the way to embark upon more and more grandiose efforts with a total disregard to the clamour that is rising, not yet to crescendo, but will soon be.

The institution that I am referring to which has been so grossly mismanaged—as is simple to understand and I believe one would have guessed it already—is the Hindu Credit Union which has found itself in serious trouble because the policies of the head of that organization very much mirrored the policies of this head of Government who has been proceeding with a vision that was very much similar to that of the Hindu Credit Union's head. I must say that the semblance is remarkable. The problem here is that there is no authority that can step in and tell the head of this Government where he has to stop and to arrest him in his path.

As I speak on this matter of increasing the debt ceiling for development, no one here can say with any degree of certainty, what we are seeking to develop. We have crossed the line of national development; we have suddenly found ourselves with a vision that has been changed from the 2020 vision that I have been receiving from this Government from the day I came into this honourable House, and all of a sudden we have a new vision.

We have a revision of a federation, modified, one would say, but we now have a vision of 1961 all over again. 2020 vision has morphed into something; it is almost as if the dreamer or the visioner or the seer has had superimposed upon his vision a different screen. There is an overplay of the visions here and we just do not know whether we are being asked to endorse an increased ceiling, not to benefit the people of Trinidad and Tobago, but to benefit the people of the forthcoming group of little countries that our wonderful Prime Minister jets around the place seeking to stitch together in a community that does not pay any regard to the welfare of the citizens of this country.

4.15 p.m.

As Sen. Mark pointed out, the floods that inundated this country destroyed wealth and property of our citizens and the Government, through its officials, has not done an aerial tour or considered commiserating with the people who have suffered. Here the sum of \$30 million is being lifted out of our Treasury and given to countries that may deserve help, but we are not the godfathers of the area. It seems as though PetroCaribe has posed a big problem to our Prime Minister and he wants to compete. He goes to Cuba and offers them US \$10 million for their plight. These countries are benefiting from another country that has realized that we are not in their league. Here we are seeking to raise limits so that the Government may be empowered to do as it pleases and as it has been pleased to do for the last several years.

As my colleague Sen. Mark said, we have no problem with assisting people who are in a difficult position, but here we have a position with a poverty line that is totally in dreamland and as Sen. Ramkhelawan said, it should more resemble \$1,000 rather than \$665. I believe that that is a moderate estimate. I say that \$665 is not the poverty line but the destitution line. There is a difference between poverty and destitution. Poor people cannot buy food. Destitute people are people who cannot buy anything and are in need of assistance.

With the record of the Government, every time we have a budget, allocations are made and then along the way, reallocations. Once the Government gets its hand on the allocations that are granted to it—I am speaking this in the full knowledge that while I am having my say the Government will have its way because it has the majority. At the end of the day the Government will appropriate as the Hindu Credit Union used to appropriate exactly as it pleased.

There is a situation today where labour has awakened and a chorus of voices is being raised commenting on what seems to be in one word, madness. I will

invite everyone to read the last column in *Sunday Express* written by Dr. Selwyn Ryan. This is a very significant article because Dr. Selwyn Ryan is a known supporter of the Government. He has taken it upon himself to write a very incisive article without naming names, but with very specific pointers to a specific conclusion. The hubris that is being displayed mirrors an established course towards a mad situation. We have not been paying attention. Sen. Ramkhelawan mentioned the tape recording which the Governor of the Central Bank strongly would be advised to prepare. I will advise him to do it. Do you know why? There is a definition of madness. Madness is when you keep doing the same thing repeatedly expecting a different result. The Governor of the Central Bank is repeatedly saying to the Government that it is on the wrong path. Make the recording so you would not be made to look mad. Let the recording sound mad. You cannot expect a different result.

We have been repeating ourselves, but we have to be repeating ourselves as our duty. By god, if I were not in this Chamber I would have stopped writing about these things. This is the stage that the Government seems to want the population to reach. You get fed up of talking and making comments so you shut up and say let them do what they want. We cannot afford to do that because the danger is too great.

This Government has a track record of taking allocations which it cannot be prevented from taking. There is no supervisor of government to step in and say to step aside and we would take over the reins.

Actually, there is one. There is a supervisor of government in the person of the President of the country. Sir, sometimes you occupy that position temporarily. I am not suggesting that you play so brave. I am suggesting that there is an authority that can step in and say that the Government needs to have a new head because it is treading a dangerous path. It is ploughing into the seas of danger.

I cannot support what I know the Government has the privilege and right to arrogate to itself, but we must register our disappointment. I cannot be like Sen. Ramkhelawan, who knowing that the patient is going to die prefers to look at the ratios and say, "I support it because it is reasonable". When do we come to the real situation? You are overheating the economy; taking allocations and reallocating them as you want; considering buying a jet for \$500 million; giving away \$30 million; breaking promise after promise and now, we are not in a position to stop you. How can we say notwithstanding all this bad performance, that we are going to support a measure to defer to your whims, fancies and dreams, when we have a duty to preserve the wealth of our country?

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There is an old saying that charity begins at home. When will we learn that? We are stingy with the Senior Citizens Grant and cutting back to the level where people who have contributed to their individual pension plans outside the Senior Citizens Grant are being penalized. We are raising the pension for teachers and cutting back on their entitlement to the Senior Citizens Grant and we are pretending to increase while we are making arrangements to decrease at the other side of the spectrum. We are losing the touch of reality and forgetting all the while that our currency is going down the tube consistently and there is no direction. There is no regard for the reality of the calamity that the ship of state is heading towards. It reminds me of the captain of the Titanic because he believed that he had an unsinkable boat. Maybe, the Prime Minister believes that he has an unsinkable economy.

In the past, we had been through the stage when money flowed through Trinidad like a dose of salts and we came to the stage where we had to go to the International Monetary Fund (IMF) and the World Bank to do structural arrangements and penalize the nation to such an extent. It seems as though we have not benefited from our experience. We have learnt nothing. We are continuing on the path of total obliviousness as if we have an inexhaustible supply of natural resources. Imagine we have a dwindling reserve with hardly more than 13 years to go and we are arranging to bring super industries; give them access to our dwindling reserves at subsidized or reduced prices, so that we can burn our reserves, resources and fuel faster and find ourselves on the breadline quicker; destroy the ecology of the environment and bring more illness and pain on our citizenry. Where is the sanity in all this? What are we heading towards? Are we so committed to burnout that we want to be the brightest shooting star heading to destruction?

I find it very difficult to understand. Everybody is talking to this Government such as its supporters, the rank and file and the labour people. There was not a shutdown yesterday, but there was a significant action taken by a very substantial segment of the community intended to give you a wake-up call, to send a message. If you do not want to listen to the message, the patient might not die; those operating on him will face a problem. I am suggesting to the Government that the time has long passed when it should review its mad dash to spending. It has gone mad with money. We need to step back a bit; take stock of our situation and consult the population. We are heading in a direction of collaboration with other States. We want to become the Western mini example of the European Union. We are contemplating action such as an economic partnership within our little area and we are not understanding the ramifications to our currency. Right now, our currency is half the value of the Eastern Caribbean.

Do you know the problems that we will face? When we come to such a union we would be diluting our worth. Water finds its own level. If you hook up together three water tanks with different levels of water, all will come to the same level. If you think that we have a poverty situation in Trinidad today, you will have to see what would happen when we start to spread the butter on the expanded loaf and try to make it stretch. We will not be able to contain the people that stay in this little land.

Now we have had it from the Government that the way to go is to let everybody come into the country with all the opportunities that are available. We disregard constantly the rights and plight of the citizens that are born into citizenship of this country. We have lost sight of reality. We are at the stage where we are seeing visions and dreaming dreams and the nightmare is about to descend upon us.

Mr. President, I have more to say and I will pause at this moment.

Mr. President: Thank you very much. I hope that when you return you would talk about the Motion. At this point I have given you a fair amount of latitude and I have not heard anything to do with the Motion. I am giving you warning. When you return I will hold you to the Motion. You have a little time to prepare.

Hon. Senators, we will take the tea break. We will return at 5 o'clock.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

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

Sen. M. F. Rahman: Thank you, Mr. Vice-President. The Minister in the Ministry of Finance has come to us today again seeking an increase in the borrowing limits under the Development Loans Act and, at the same time—and this is a point that has been made by others—he has accepted that in the past this device of the Development Loans Act has been used as a liquidity management tool.

I do not know if at the time of those applications for development loans that it was made clear to the Parliament of the day that it was the intention not in fact to raise funds for development purposes, but actually to manage liquidity and sterilize funds. I do not know that the Parliament would have colluded to subvert a law which has a specific intent. The law says that this borrowing is for general

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development purposes, but one has to understand that sterilizing funds may be a safeguard against inflation, but I do not know how it can be properly classified as a general development act.

Sen. Ramkhelawan said that it may not have been illegal and the good Minister also said they did not break the law, but if they did not break the Act, they also did not conform with the Act and one has to say to himself today: If we were being asked to increase the limit again, what undertaking is the Government giving other than to say very breezily and happily that they are seeking to do this general development in the areas of water, rapid rail, housing and development of the agricultural lands of Caroni (1975) Limited?

We have never been able to hold this Government to account for keeping the promises it has made with regard to funds raised. Again and again, we are being told that although the funds were taken for this reason—they were reallocated to different subheads—and we have the developing situation in this Parliament where secret expenditure is being promoted as the method the Government has a right to practise under the question of safeguarding the individual rights of people.

You see Acts and laws are for specific purposes. You cannot provide in an Act that you will deem a certain thing a crime and arrest someone on something that resembles it. You have to have a specific Act to deal with acts of criminality. Similarly, when an Act is passed and it defines the whys and wherefores—we have had Acts that were passed by the UNC government being put into limbo because they did not specifically state what they really wanted to achieve.

Here we have the Development Loans Act which specifically states that it is for the purpose of financing general development in Trinidad and Tobago that has not been done in the past—they have been sterilizing the funds. The Act states that repayment of borrowing is effective for such general development, but we are not raising these funds to repay prior borrowings.

At this point, I would like to ask: Now that the Government has got a Treasury Bill that permits it to sterilize funds without limit, I am at a loss to understand why it does not release the \$4 billion that is now sterilized against the letter and spirit of the law as we have it here and reduce your requirement of \$7 billion by the \$4 billion you already have in hand? Why do you want to perpetuate an irregularity in the implementation of law when, as a responsible Government, you are supposed more than anybody else, to obey the law? You pass laws to circumvent them? I do not know that that is the modus of any reasonable Government.

As the Prime Minister says, this Government does not break the law. I say: It does not break the law; it circumvents the law. Here we have a flagrant case where the Minister gets up and tells us that was the device used even though the Government always had the option of passing the requisite law to mop up liquidity in the way it wanted and even though other fiscal measures were available such as increasing the reserve requirement to accomplish the very same objective that was accomplished by subverting the law.

Here we are being asked to increase the limit by \$7 billion without a single guarantee that any regard would be paid once the money is in hand and authorized for the commitment that the Government has undertaken when setting out to raise the limit.

We have had the rapid rail matter—I do not know if I remember correctly, but I believe that there was some question of the rapid rail being funded by some arrangement other than the Government having to buy it outright. Why do we have to increase our limits and then we are funding in a parallel and different way the development that you are seeking to put?

Again, the rapid rail system which they intend to fund has not been met by a general consensus in this country. This is an idea of the Government to fast track the development of the country to the 2020 vision which has now been undermined. We are going ahead with a system that in 14 and 15 years we will not have the energy means to run. It is almost like you are building your house on a landslide area and we just did that with the Caroni Bridge because it has started to shift on its foundations. When we asked about it, they said that it just happened to be put on a piece of shifting land.

That is an analogy of what we are doing here. We are proposing to increase our limits to invest and to fund structures and facilities that will become museum pieces in a decade and a half. At the same time we are not conserving the resources. We are accelerating the burning up of the resources by the companies we are seeking to encourage to use more of our facilities at reduced prices.

Mr. Vice-President, we want to see this country develop, but the area of development must be an area that benefits the citizenry of the country. It must not be an area that gives us a facade so that people coming on a ship or flying past the country say that it is a pretty looking nation. The development of the human resource is fundamental and you cannot have development of the human resource by

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presiding over starvation of 17 and 20 per cent of the population. This is an oxymoron policy. You are contradicting development when you disregard human needs and suffering.

We have a situation here where, with all the money in the world, we were told that if we do not buy the jet we will not get hospital beds. Why can we not have an undertaking from the Government to look after these items so that when people suffer it has the means to attend to them? It is an area that we constantly neglect and are paying greater and greater regard to physical development and not recognizing that the resources that are providing the increases we are seeking are dwindling.

We need to develop technologies. You know how places like Hong Kong and the Eastern Tigers have developed their economies? We need to spend money. I know we are doing the UTT and the education bit, but that is another irony because we have a complaint that we are developing our knowledge base in terms of education and yet we are losing people to greener pastures. We have to find a way to use development funds to develop in a way that when we develop certain sectors we benefit the nation. We cannot continue simply to raise funds through the development loan facility and expend those funds in areas that are not productive and that are not going to regenerate the economy and in areas where, rather than making life easier for the people, we are contributing to the very inflation that we are trying to control when we go into the liquidity management.

What has the Government done with prior increases in the development fund areas? They have admitted that they have used it to sterilize funds; to reallocate to different subheads about which they did not tell us; they have embarked on programmes where they are giving away scholarships to hundreds of people who are not identified. This is the fund raising effort that this Government has been undertaking. When they tell us they want to raise funds under the Development Loans Act for the purpose of financing general development in Trinidad and Tobago and we see how moneys that come under the control of this Government actually is spent, we have to ask: How can we believe you? What recourse do we have?

There is an expression in the banking industry when a fellow comes to borrow money, if he does not say specifically what he is going to use the money for and the bank lends him, they call that gold money. Then he can take that money and blow it in any way he wants.

5.15 p.m.

This has been the modus of this Government. They have come with a requisition to increase the borrowing limits and then blow the money in areas that

are not related to the original expectations of the country. No country can continue to spend and spend and spend without putting aside for the future. We do have a Heritage and Stabilisation Fund, but right now our total borrowing and total debts, I do not know the exact figures, come pretty close to, if they have not exceeded it, the Heritage and Stabilisation Fund. The bottom line is that with the credits and debits, we might very well be drawing blank. Apart from our resources, which are dwindling resources, we may be in a deficit spending situation at the end of the day. While today the banquet is lavish and there is a lot of food on the table and a lot to go around, we are not in a situation where it is going to last forever.

Mr. Vice-President, I would have liked to continue, but because of the month in which we are, I really am going to be hard-pressed to continue further.

I thank the Senate for its patience. Thank you very much, Sir.

Sen. Basharat Ali: Thank you, Mr. Vice-President. I join this debate as a person, a non-accountant, with little experience in accountancy and as a non-finance person. I would not want to get into the debate that has been going on as to the legality or otherwise, of the use of the Development Loans Act, Chap. 71:04, for setting the limit or for accommodating, if one may use that word, the issue of bonds, which were passed in a Bill during the past period before the recess. Suffice it to say, there was, on that occasion, an amendment to the proposal for setting a limit of \$5 billion; a ceiling for those Treasury Bonds, but that was defeated and, therefore, I did not expect that some other Act will be used for putting the funds that are borrowed there into it.

I tried to listen to the debate in the other place when it was there and I got no joy out of it. I could not understand what the hon. Minister of Finance was saying. I read the contributions and I still did not get the whole argument then. It was in defence of general development. That is what I got. There was an argument going between two lawyers, basically Mrs. Kamla Persad-Bissessar and the Minister, on whether general development was covered by the Development Loans Act. I, as a layman, cannot see it, but maybe others can see it. I believe the Minister was not happy about it. I gathered that. I think my colleague here was also of that view. I would leave that as is.

I tried to understand where we were, in terms of our borrowings. I went back to the public accounts of 2006 and there I found a little surprise. Under the Development Loans Act, Chap. 71:04, in the summary of the public debt, local loans at September 30, 2006 were given as \$9.722 billion. That is my rounding off. For that same year, the external loans were \$10.807 billion. It would appear to

me, if my arithmetic on my little computer works, that adds up to \$20.529 billion. It would appear that at September 30, 2006, we were already in breach of the ceiling of \$13 billion; if that was indeed the ceiling as given in the Motion. That was a cause of concern to me.

When I started to look at 2007—by the way, as reference, the dates for that are on pages 100—101 of the 2006 accounts. Those are the relevant pages from which those figures were extracted. When I looked at the 2007 public accounts, which I have here, we are looking at volume I, pages 15 and 16, the big surprise there was not in local loans. Local loans were given as \$11.835 billion and external loans were zero. I wondered where all those loans, the \$10.807 billion from the previous year, went. Did it mean that all those external loans were paid/retired, what was the source of the payment of these loans and also when did it actually take place during fiscal 2007? There we were at 2007, with a total—I am only talking about Chap. 71:04—borrowing debt of \$11.835 billion. That is what is in the accounts.

Also, a very peculiar thing I saw in those same accounts on page 16 relates to the summary of the public debt, which includes all the other sources. I know, for example, that certain projects were covered by or handled under Chap. 71:05, external loans. In that category are projects which I have already spoken about, the VT Shipyard Project for the Offshore Patrol Vessels, the Academy of Performing Arts and the National Oncology Centre, which might be a bad word to say. The hon. Minister of Health is not here. I do not know whether we can consider it in development loans, because it seems to be a retrogression rather than development.

If you look at page 16, I found something peculiar in the final column which states total debt and they give a number REF! I could not understand what that means. I still do not understand what that means. Perhaps the hon. Minister will care to explain what that means because there is no total there. *[Interruption]*

Sen. Browne: This clearly is an error. They were using an Excel spreadsheet. This clearly is the reference in the Excel spreadsheet. It was incorrect so it generated a number and the proofreading was wrong. That is why there is REF! That is the only explanation I can see from simply looking at it.

Sen. B. Ali: Thank you, hon. Minister. I spent a lot of time trying to find out whether there was a—I thought it was reference 1. The note of exclamation looked like a 1 to start with. Suddenly I realized that it is not the figure 1. It occurs on the present debt column two or three times. I do not really know. On the

other hand, they do give a figure under the summary on page XIV, of \$8.639 billion, which is the number which is given in the total loan summary in which they looked at the off balance financing and these other sources. That is a matter I would like to have clarified, because I spent a good bit of time and could not find out what it was all about. Those are the questions I have outstanding from that part of it.

I am pleased that the Minister did make an attempt to say what—at September 30, 2007, there was \$11.835 billion, in terms of local debts. There was still roughly \$1.2 billion. That must have been mopped up together in the process of using the Treasury Bonds issues. There may still be some funds there; I do not know. As I said, some of the other external borrowings have been under the External Loans Act, so it makes the matter a little complicated.

The hon. Minister did give a listing as to what the possible projects would be for use of this additional ceiling that is being asked for, the extra \$7 billion. I took a list of them. The first one related to WASA. With respect to WASA—I presume he was speaking to the Water and Wastewater Master Plan—the question of desalination came up.

Quite recently, we have heard that WASA cannot account for 40 per cent of its production. Forty per cent of the water that is produced cannot be accounted for. How much of that is leakage or whatever? I do not know. We do not know either. I do not know if WASA knows. A lot of it must be leakage, because everywhere you go you see leakages. The first thing WASA has to do is put its house in order. I believe Genivar has told them so. Genivar are the people who are preparing the master plan. That would not require this amount of borrowing to put their house in order. Putting their house in order might mean looking at their human resource and management structure. It is intolerable that this has been happening all along. Year after year you have all this loss and nobody has done a water balance to say: Where is it? Is it leakage or water being stolen, or whatever it is? That is the first priority for WASA, as far as I am concerned. I worked in development and that would be the first thing I would do to make sure that I am getting benefit for all of the water I am producing.

They go to the RIC and ask for an increase and they say: “Well you cannot do anything until you fix your house. So many places do not have water and you are not doing your job properly.” It is like a circle. I think this Government has to insist that WASA gets down to identifying and correcting that big loss. You can only call it a loss. You might use any other term but it is a loss when you cannot say where it is gone.

In terms of electricity production, there are two things. The hon. Minister was speaking about new generation, of which we are aware. A good part of that new generation, I thought, was certainly at Union Estate. That was pretty well foreign. A large part of that project is foreign-owned, Trinidad Generation Unlimited, which we talked about before. That does not mean that there is a big element for T&TEC or whoever it is, unless the Government decides to take up this carried participation seriously, in which case they would have to undertake to finance their portion of that debt.

The other thing which I have noticed and would like to bring to the attention of this Senate is the question of the easy projects that T&TEC does, for example, the street lighting project. While it was a praiseworthy project, there was no real attempt to make it a project of necessity. It was a blanket thing of street lighting.

5.30 p.m.

I remember former Sen. Sadiq Baksh saying that there were many areas with street lighting and people were not living there. So, there is no discrimination in terms of having to save money. The easiest thing is to let a contract overall to put up the lights and everything works. Now, the Government is spending—I am not sure what the sum is or committed to be spent on parks and sport grounds. I believe some of the work is already in progress. I think one needs to sit and look at the wastage that is taking place.

I was on the Priority Bus Route with a visitor and I was going past the Aranguez Savannah—I am close to Aranguez because there is where I was born—and there were all these bright lights. My friend asked me what is happening there and I said that is normally a football ground. This was around 11 o'clock or 12 o'clock in the night. Nobody is there, but all the bright lights are there.

I remember when I spoke on street lighting I said that the electricity bill would be about \$40-odd million a year and this would have to be paid by the various corporations for street lighting. So, there we have waste of energy and waste of all the resources which could be corrected by some kind of control. I mean, if you do not have a football match for two or three days, then you can go and make sure that it is turned off so that at 1 o'clock in the morning the place is not lit. Security is one aspect that one has to look at, and I agree that certain places would have to be lit as the street lights are. I would urge the hon. Minister in the Ministry of Finance to bring this to the attention of the Minister of Public Utilities that we must start conservation. It is good to be able to do that, but where electricity is

low in cost and has been for some time, that is a waste of energy, a waste of our natural resource which is natural gas and it is adding to climate change by emissions.

The third area that the hon. Minister mentioned was the Ministry of Works and Transport and they have been doing projects without any feasibility study. This is one of the things I could never understand. I come from a different discipline where in order to spend any money you have to justify spending it by rate of return or whatever. In the system of Government, there are imponderables or non-financial benefits which may accrue.

With respect to the Rapid Rail project, I have raised this matter before and I do not want to “rail” about it again. We have not seen anything that resembles a feasibility study for a project which is moving into billions of dollars. I know that phase I is supposed to be completed soon, but whether phase I would include some kind of feasibility—not only technical feasibility but financial feasibility—is what is left to be seen. I would say that we should not be putting any money there until we can satisfy ourselves that there is a reasonable hope that we will at least break even. The only way we can break even is by really charging people.

The same for the water taxis. We are now in this project of water taxis and, as far as I know, that is US \$40 million for the new water taxis and I do not know if it is \$30 million or so for the used one. So, at least, US \$50 million going into a project like that. We would probably be borrowing some money from whoever is chosen to supply those vessels just like the fast patrol vessels that the hon. Minister of National Security is getting. That is TT \$390 million for the six fast patrol vessels. That is financed by an Australian/New Zealand bank. We would probably be hearing about these loan arrangements when the Public Accounts 2008 comes out and that is probably March next year, because the fiscal year ends about now. So, those are all items where we are spending money. I am very concerned at the level of spending on all these projects.

With respect to housing, it is an essential item. I noticed that yesterday in the *Guardian* there was an advertisement for the issue of bonds to the extent of \$700 million. Now, that could be a justifiable project, I am sure, but I am not sure which of the instruments they are using. All they are saying is the HDC is authorized to do that; under the Act they are. This is a Government guaranteed loan, so at least it is a contingent liability. So, \$800 million is what that bond issue is for.

The only thing where we are not spending money and where we need to spend it is on agriculture. I do not hear of any spending in agriculture, whether it is

megafarms or minifarms. I do not hear anything about it. The hon. Minister is not here at the moment and I cannot pose that question to him. In the context of this Motion, I think there are minor spenders.

So, the concern is, I lived through painfully the late 1980s when we got ourselves into that crunch where we could not pay our debts. I worked in projects and I had a couple of projects. The market fell out and methanol production was there and we could not pay the bill; the urea production was all there and we could not pay the bill; and ammonia was a joint venture and we had a big multinational partner. All of these were Government guaranteed loans. The Government then, as you would well know, when the Paris Club situation arose, we went to the IMF conditionalities which affected all the citizens. In fact, it put a lot of pressure on the then government to do something and probably they did the right thing.

I am looking at this matter now. I know that everything is very buoyant at the moment and everything is looking great, but I was hoping that the hon. Minister would give us some cheerful news. All we are hearing is how much money the Government is going to spend, and I was hoping that the hon. Minister would get up and say probably in this quarter or the third fiscal quarter we are going to deposit this large amount of money into the Heritage and Stabilisation Fund. He still has time to do it during this Motion. Let us face it, because that third quarter would probably be the most beneficial quarter for us, because crude oil prices from what I could see were at West Texas Intermediate US \$120 per barrel compared to \$90 for that quarter which is the data you gave me. From my estimate, natural gas was \$11.25 per mmbtu which is way above the \$7-plus that we have been looking at.

I would be very happy and we would be very cheered if we knew that you want to spend, but you are saving so much. We are always hearing boasts about how much money we have there, but when we look at it, what we have put in so far for half of the year, which is the \$1.136 billion, represents 10.9 per cent of the collected petroleum revenue of \$10.419 billion. There is where that figure is.

I had to say that the Minister of Finance, like Shylock, took his due. A minimum of 60 per cent has to be transferred to the Heritage and Stabilisation Fund and that is what was transferred; 60 per cent of the surplus of revenue actually against projected. It is 60 per cent and not 70 per cent, 80 per cent or 90 per cent. I am hoping that with the much bigger intake which we would be expecting in the third quarter, that it would even be much better.

In fact, this year our deposit into the Heritage and Stabilisation Fund should exceed all previous years. That is my hope. This quarter may not be as beneficial as the previous ones, but I have no estimate for this quarter. I will by the time budget time comes. By that time, hopefully, we would also know how much money would have been transferred or could have been transferred into the Heritage and Stabilisation Fund. Having said all of that, I have a dilemma as to how should I vote on this issue when the vote comes up. [*Laughter*] I have not made up my mind how I should vote, but those are some of the matters.

The inflation problem is the one that is in the air right now and it is fuelled by spending, so much so that today's *Express* has an editorial and it is called "Our inflation challenge". Mr. Vice-President, let me read just a few sentences out of that editorial. It says:

"Literally pleading with the Government during the last four years, the Governor of the Central Bank has been calling for less public spending, but the Government has all but rejected each and every one of his entreaties.

From all the responsible economic analysts in the country have come support for the Governor's cautions, seen as the most effective tool against the corrosive impact of inflation.

Heedless in the face of such realities, and with its eyes fixed unmovable on its own version of the development agenda, the Government presses on.

But with some predictions already making the case for an inflation rate steadily inching towards 15 per cent, there appears to be increasingly compelling cause for pause. As one young female economist put it yesterday, the idea of double digit inflation is not consistent with our ambitions for developed country status.

The more it becomes endemic the harder it would be to effect the desired roll-back, greater social dislocation and threats to national cohesion being the dreaded outcomes."

I think that is very good advice and a well-put statement there. I would like to say that this is the approach that I would like. Let us spend less and let us save more.

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

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I join this debate simply to put into the record some views which need to be put within the context of the exercise that we are involved

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in. The first matter that I wish to deal with is to take off from where Sen. Ali finished with this notion of talking about inflation in the context of spending and in the context of simply saying that if you spend less, the inflation issue will disappear. Let us understand where we are today.

Mr. Vice-President, we have said it before and we continue to say that we live primarily within the world today at a time when the demand for energy is creating a dynamic that has the impact of significant cost. That is so because the world never took advantage or never understood the fact that China and India are creating demands for which we are not prepared. Therefore, some of the things that we are seeing now are not a function of spending, but it is a function of not having sufficient in the quantities that are required to deal with the demand.

5.45 p.m.

The first point I wish to make is that in the context of the energy price for both gas and oil, unfortunately will continue to rise. It will continue to rise because in China for example—just to quote one statistic—at this point in time, for every 1,000 members of the Chinese population, 10 currently own motor cars, and based on the wealth that they have, it is projected by 2030, 140 per 1,000 will have the ability to own motor vehicles.

To put it another way, everybody in those large continents is looking to have a standard of living that we take for granted in Trinidad and Tobago. If you were to measure that in barrels of oil consumed for the lifestyle, you would find a statistic that goes something like this, in a developed society like the one we are aspiring to create, it would take something like—for argument, just to make the point—20 barrels per person. In China at this point in time it is less than one barrel. So, even if they multiply—what is the word, add, whatever—by 20, they will still not be able to reach where we are today, and this is what they are aspiring to do.

So, on the one hand—[*Interruption*] Well they are trying to get to aspiring; they have the money and they want a quality of life, so there is a requirement for more goods, more services, more comforts, those kinds of activities and that is the point I am basically trying to make, but the world has not been prepared for that demand; that is the other point. Therefore, what we see happening today is that in trying to move up—if you will, especially in the energy sector—gas and oil to meet that demand, we have created a situation where the cost is really something we have to treat with.

I say that in the context that if we do not understand what is happening globally and the impact on all of us, we are likely to come to the wrong conclusions. We have three issues that we have to treat with today: the issue of security and energy price; the issue of food security as a consequence of that issue, and of course, the environment. Be that as it may, Trinidad and Tobago has two specific outcomes: one, we have significant revenues, because we are in that business, but you cannot get the revenue without all the other things that come with it, and one of the things that come with it is a high cost environment.

Just this morning I was having a discussion with one of the CEOs of one of the larger oil producers. He said to me that his cost, in any one year, just for staying and doing the things that he is doing, has moved from some US \$500 million, which is what currently exists, to some US \$648 million, just on the basis of doing the same thing; doing absolutely nothing else. He has gone through the entire organization, reduced staff, reduced cost, gotten more efficient, but that is the cost, because that is what is happening. For example, he said to me that to keep a rig, whereas it was costing him US \$200,000 per day, a year ago, is now costing him US \$400,000, and they are saying if you cannot pay the price by a particular date—because we could just walk across to Brazil and they will take everything that we have. So, there are some dynamics we have to deal with.

The policy of the Government though has been that on a very broad basis we do not run deficit accounting. What do I mean by that? We take the view that revenue minus expenses must give you some profit. So, our policy position has always been: determine what your price will be for revenue, determine what your price will be for expenditure, the differential goes into the Heritage and Stabilisation Fund as savings, and if there is any additional it goes into more goods and services. We have always had the argument, if you have this level of resources what do you do with it?

When the Government found itself in that particular situation, it took the view that it must get involved in a series of policy positions to create a different quality of life for the people of Trinidad and Tobago in certain very specific areas. What it sought to do is, by allocation put more dollars into education; put more dollars into medication; put more dollars into housing; put more dollars into national security and a host of other things. While it was putting more dollars into those activities and it was doing things, that of itself created a demand and a set of situations that created for us some dynamics, and our response to those dynamics was to look at the supply side issues, and there is a lot of discussion on what happened there and what did not happen.

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So, when Sen. Mark makes the point that Government policy is incorrect, he makes the point but in a sense he does not say where the incorrectness is. In arguing this evening for the Bill before us, what are we in fact saying? There are two ways in which we finance Government expenditure. We basically come to the Parliament and say that our recurrent expenditure and a portion of our infrastructure development cost will be financed through the Consolidated Fund, and you can do that through recurrent expenditure and you have a number of other things that you do; you do PSIP, infrastructure development fund and so on; all of that basically comes from the Consolidated Fund.

The other thing Parliament gives us approval for is the limit and you use that during the course of any one financial year to get involved in large infrastructural projects that require financing that cannot be accommodated within the context of one year, but which you get involved in the expenditure and you amortize it over a period of time; that is how you do it in normal accounting.

As it relates to Government accounting, you simply use your Development Loans Act, you get the financing and you repay the financing through the Consolidated Fund, and this Act allows you to do that. Put it in normal everyday language, if you own a business and you had to buy a fleet of vehicles, you will not necessarily go and use all your cash to do that. What you do is you borrow it and you pay back over a period of time, much the same as a mortgage.

The Development Loans Act gives the Government that flexibility, so that it can manage large projects over long periods of time by in fact, using on an annual basis, a sum of money that really would be paid over a period of time, but it gives you the benefit up front. For example, you could not build 26,000 houses simply on the basis of going to the Consolidated Fund, it just would not allow you to do that, but you could borrow that and repay \$1 billion, \$2 billion a year on the basis of what it is.

If you look at the structure of Government accounting you will see that after you pay salaries and wages, interest, minor expenses and all of that, the profile of Government expenditure really has not changed. So, with additional revenues and additional demands, if you look at the relationship between that quantum of money that you are spending in relation to the revenue, you will see that in many instances—unless you do fundamental damage to the structure—it is going to continue as is, and that is the challenge that the Government faces from time to time. There is the whole issue that is normally talked about. What worries you?

Sen. Dr. Charles: I wondered how the budget could go from \$18 billion to approximately \$40 billion in just a few years. Wages have not increased by 200 per cent or whatever, and the structure remains the same. How is that possible?

Sen. The Hon. C. Enill: It is possible because while wages is a component, the major, major cost increase has been in education.

Sen. Dr. Charles: Recurrent?

Sen. The Hon. C. Enill: Recurrent, yes. Listen, during the course of this year we found ourselves in a situation where we had, I think 320-odd returning students, based on the fact that we had paid for education. You know at this point in time we pay for education.

Hon. Senator: Scholarships.

Sen. The Hon. C. Enill: Scholarship returns. I mean, when we did the work some time ago—in trying to understand the same question—what we found is that the major expenditure that the Government took on was in free tertiary education and free education. It was in medicine, CDAP, that drug programme, 120,000 people, housing and all of those were actually a part of the revenue side of the expenditure programme.

The other thing that we did is put money into companies like EMBD, for the Caroni issue; WASA, bringing it on budget rather than off budget. Many of those programmes when you put it there you actually start to understand the real, real charge that you have on the consolidated account. What we sought to do was to put everything there. In the past, what would have happened is that we would not put it there; we would finance it off balance sheet, and then we would deal with it in a particular way. We did not do that, we decided to put everything there.

So, the element of the escalation of cost that we had, had to do with two things: one, was bringing everything on the books, but also increasing the benefits. Remember what the Government did? The first couple of years that the Government came into office, it took the view that it was going to focus on education; it got that right. Everybody is getting education today and you really do not have to have the first dollar. If you do not have the dollar, we will give it to you and we will make sure that once there is a place available anywhere in the West Indies, in any of the universities—and we expanded universities as well. It used to be just UWI; we have Southern Caribbean, University of Trinidad and Tobago (UTT) and all the institutions. We have the one in Grenada, all about;

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wherever there was a place that was available, that could have been taken by a citizen of Trinidad and Tobago, the Government actually paid for it. So, education cost is a major expenditure within the revenue profile.

Health is another one. We expanded CDAP from the 14 drugs to—I do not know what it is now, but when you look at the numbers; when you look at the housing cost; when you look at what we did with social services, 180 programmes for different kinds of things. We are looking now to see if you get the best benefit for it. When you actually look at the expenditure you will see that infrastructure cost, as it relates to the percentage of infrastructure in the context of the whole budget, the whole cost, is a small amount. The infrastructure that we have done in many instances is to relieve the pressure on the public service officer who wants to deliver a different level of service, but in conditions that were not set up for that.

I mean I can tell you, the Ministry of Energy and Energy Industries for example, operating out of Riverside Plaza. You come to work in the morning and you see two bullet holes. So, at any point in time you are trying to figure out what is happening here. Somebody calls you and tells you, hear what, I just passed the place, but do not pass there because somebody just died. Those are the kinds of things that we have our people operating in and therefore when we choose to change the circumstances; when we choose to agree that we should really and truly put them in circumstances or in locations and offices that are reflective of the wealth of the society, we have a whole discussion about genuine development and so on.

Let me tell you what development is about, Mr. Vice-President. Development is about making sure that those in our society who cannot or will not see about themselves are provided the opportunity by the Government, and this Government has done that. If today you do not have a job, it is because you do not want one.
[*Interruption*]

6.00 p.m.

Let me put it to you this way: We have to be clear about something and I have had the experience—[*Interruption*] I have degreed people working for me as OJTs, no problem. We talked to the business community on the one hand and we have done some things, for example, we put a project together and we found this group of individuals who went to school, basically and who said: “Hear what, we are looking for something and cannot get any.” Put it in place; US \$12 million, no prior checks, everybody started to work properly. After the second week the guy said, “Hear what, we do not think we want this anymore because we make enough money and therefore we need to do something else”, jeopardizing the entire project.

So that part of what we are seeing in some instances is an attitude by some of our people that does not support productive activity. They support a different kind of activity and that is really something that all of us have to deal with, and we have to deal with in the context of a different discussion. I think we have to engage in a different discussion with people to understand that if I can provide the job for you, at least, you need to sit down and write the resume.

We had the situation where I was going through the East-West Corridor and met a number of persons who said to me, "We are looking for jobs". I went into the business community and the business community said it had 19 houses. I picked up the phone and I called the guys and said, "Hear what, all of you employed; send the resume so I can send it in." Well, three years later I am still waiting on it.

Sen. Mark: Why you all cannot write—[*Inaudible*]

Sen. The Hon. C. Enill: Well, we have seen that as well. [*Interruption*]

Mr. Vice-President, the reason I am talking about this is because it is really about us looking at these issues and understanding that some of these issues require money and they require us to do certain kinds of things, and the Development Loans Act is a mechanism that allows us to do that.

But getting back to the particular issue; we have a situation—you are correct—where the two things that we did are: The first thing we did is that in developing some of the programmes we found that people were not coming to the programmes, so we took the view that we would go into the communities. So we went into the communities and trained the people, and to work on a construction site you must pass a test. Well, we found ourselves in a little situation where most of the people who took the test could not pass it, so we had to create a different avenue for them to be able to get something.

But, enough said about that. The point I am making therefore, is that, even as we try to solve a number of issues, we have a whole host of other things that are emerging and they are taking over as the issues that we have to deal with and that will continue. When we educate everybody, the problem will be to find jobs for them; when we find jobs for them the problem will be houses; when we give houses to them, the problem will be motor cars, and that is how it works.

What I fear is that sometimes we do not take enough time to understand where we have come from, what we have done and how we are progressing. We only see the negatives in what is happening and I think that is unfair sometimes.

One of the economic arguments that I have heard raised from time to time is this notion about reducing the non-energy fiscal deficit. Now let us explain that: In a real sense it sounds very nice to talk about it, but it means absolutely nothing. In this sense, if your revenues are going to increase—as ours will—as a consequence of higher prices and you have a relationship between energy revenues and non-energy revenues, then what you would find when you work the maths out, is, as the price increases the deficit will increase, so, it is a nonsense. The reason that it is normally used, is to do something else. It is used to determine whether, if there is a price shock, your economy can survive. That is how it is used.

Therefore, the way we deal with that, is by looking at the structure of the economy. Our economy is an energy economy. In the past it was oil-based. Today, on the basis of hydrocarbon production, if we look at the caloric value, we would see something like this: Oil production, 120,000 barrels per day; gas production, somewhere close to 700,000. We are now in a situation where we need to go back to looking at oil production, because we do not like the exposure between gas and oil.

There is a difference in the characteristics of oil and gas: Gas has a longer term revenue stream. So, we know for example, that on the basis of Ryder Scott—which most people like to use, that if we do absolutely nothing, and we are not doing that, we are doing a lot of stuff—you are going to have just about 13 years of continuous production. These contracts are in place, you determine what the price is and you would be able to track over the next 15 years a stream of revenue.

In terms of oil, oil is going to go up and down, because the way that the oil market operates is global spot; the way that the gas market operates at this point in time is regional and more predictable.

What do you want to do with the money? Some of the questions that came, really, have to do with the question of sustainability. The Ryder Scott Report in 1972, I think, indicated that we had six years of supply. It is simply an indicator as we have said of Government's intervention into the fiscal regime to determine whether or not the companies are producing at the rate that we want them to produce and how that issue is developed.

I listened to Sen. Mark, and he talked about taxpayers of the country. Now if he looks at the taxpayers of the country, he would find that the energy companies, the individuals, value added taxes and the whole build-up, really need to be looked at, because, when we give an incentive to a company to get involved in a project, to get involved in manufacturing and you look at it in the context of its

contribution to Government's revenues, you cannot make the point in the way that it is being made as though there is something wrong with that. It is an investment that will create a stream of revenue that is predictable on the basis of productive activity and that is something that we do.

The whole question about accountability and transparency: I think that in many instances the questions are raised in the absence of information. Two gentlemen were spoken about in this debate as having power: One, Dr. Ken Julien and the other one, Calder Hart. I happen to know both these gentlemen and I happen to know how the system works. Let us take the energy sector for example. The energy sector operates on the basis of a structure in which there is a standing committee on energy chaired by the Prime Minister, has a series of Government Ministers and has a task force that basically goes out, gets information and brings it to the committee and the committee takes the decision.

Dr. Julien, as part of that group, is charged with the responsibility of doing the technical work and bringing it back to the committee. Once it comes back to the committee, it goes through the normal government process. So then the Ministry of Energy and Energy Industries, for example, will have its people look at the project; we will, with the Ministry of Finance, look at the feasibility and then it becomes ours, and then once it becomes ours, it goes through the normal processes; it gets parliamentary approval; it goes through Sen. Mark's Public Accounts Committee and it withstands the scrutiny like everybody else. So, when you talk about, no accountability and no transparency, it is difficult for me to understand what it is you are asking for in the context of the rules that we have set up.

Sen. Mark: I was dealing specifically with—if you may?

Sen. The Hon. C. Enill: Sure.

Sen. Mark: Mr. Vice-President, I was dealing specifically with the Bamboo International Corporation, when the former Minister in the Ministry of Finance wrote a letter to Prof. Ken Julien advising him not to go a particular route, yet still, he did not listen to the Minister and invested \$22 million. That is what I am talking about.

Sen. The Hon. C. Enill: And the point I am making to Sen. Mark, is that if it is that the decision was taken, the decision would have been taken by Government, because, at the end of it all, it is the Government that will make the decision, and the Government can make decisions in the best interest of what it wants to do. If, for example, the Government believes that this, notwithstanding,

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it is going to put in place measures that will allow it to get the technology because that is what it wishes to do at this point in time in the development of the ICT sector, then it will do that.

Sen. Mark: In spite of—[*Inaudible*]

Sen. The Hon. C. Enill: Again, it is the same Government that will look at these issues, and the Government, on balance, will make a determination. The point I am making is this—

Sen. Dr. Charles: That is called “power”.

Sen. The Hon. C. Enill:—you have to decide—[*Interruption*]

Mr. Vice-President, what I am hearing is that it is individual, what I am saying, it is Government, and that is the distinction I am making. [*Interruption*] The distinction I am making, it is the Government that takes the advice provided to it and it is the Government—

Sen. Mark: Who is in charge of the Government?

Sen. The Hon. C. Enill: Well, that is the point of view that I do not share, but I wanted to make that particular point.

Sen. Mark: Well, try to tell the Government what to do.

Sen. The Hon. C. Enill: Mr. Vice-President, continuing: How are you using your resources for the development of the country? Sen. Ramkhelawan speaks. He asked the question. Fiscal indiscipline in the economy, how do you arrive—I really wanted to understand how he arrived at the conclusion.

Everybody keeps talking about the fact that the Governor of the Central Bank—and the Governor of the Central Bank is supposed to say what he is saying—the Governor of the Central Bank looks at his indicators and says to us that we believe that this is what is happening.

The IMF came to us sometime ago and said that we do not believe that you should be spending any money on social programmes. “Doh” think so, think it is a waste of resources. We said, “Well, that is fine”. But nobody elected you, basically, to deal with the issues of the people of Trinidad and Tobago. We promised the people of Trinidad and Tobago that we will do certain things and if they are of the view that we are working not in their interest then they will remove us. That is what happens. But as long as we have been elected and as long as we have said that is how we will use the resources for the benefit of the people of Trinidad and Tobago, that is what we will do, and in many instances—

Hon. Senator: That is real power.

Sen. The Hon. C. Enill: And in the history, we have found that when we are looking after our own interest and when we are looking at our people's interest, we have had to take some risks. Let me give you an example: The fact, today, that we have a gas economy was against conventional wisdom; it was against everybody saying to us that we should not do that. The fact that we floated the economy liberalized the exchange rate, those are decisions—

Sen. Mark: You floated the exchange rate, not—[*Inaudible*]

Sen. The Hon. C. Enill: Right—that when they were made, were made against conventional wisdom, which at the point in time, really and truly, could not and would not facilitate some of the realities of our circumstances.

So, if it is, and indeed it seems so, that there are those who do not understand what we are doing, it is our fault, we need to provide more information.

Sen. Mark: But it is clear that the majority of people do not listen to you. [*Laughter*]

Sen. The Hon. C. Enill: So, we have done a bad job at it, but because we have not communicated it, does not follow that it is necessarily a bad thing. [*Interruption*]

I think the point I wish to make is as follows: One, the Government has a plan in which it does not spend more than it earns. Second point, we are not spending all that we receive. A lot of it is being saved; it is going into something we call the Heritage and Stabilisation Fund. Thirdly, we are in a petroleum economy.

[MR. PRESIDENT *in the Chair*]

The petroleum economy at this point in time is behaving in a particular way, on the basis of demand created external to Trinidad and Tobago, but Trinidad and Tobago is going to feel the impact of that. One of the devices that we use in Trinidad and Tobago, not to pass on the impact of an energy economy to the population, is this whole question of the subsidy on fuel.

6.15 p.m.

Mr. President, I wish to commend to this honourable Senate, that the Motion that we are currently debating is one that is necessary for the Government to pursue its programme of development in Trinidad and Tobago. If it is there are questions that need to be answered, they can in fact be accommodated. You only need to ask them.

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In many instances, some of the arguments that we hear supports some of the positions. For example, I heard Sen. Mark make the point while he was debating, that development is about housing; development is about health; development is about education; and development is about social services. The evidence, the information and the material to support that which Sen. Mark says we should be doing, is available. But I think at the end of it all, there is much that as a country we can be proud of, and maybe the time has come for us to start looking at that which is right with us, rather than that which is wrong. I think in those circumstances, once you continue to say to the Government, as indeed my colleagues will be saying, that there are areas in which we can in fact improve on our current performance, we will take it into account and facilitate it to the extent that we can in fact do.

Sen. Mark: Mr. President, would the hon. Minister explain to us why this contradiction or virtual conundrum as it relates to some of our colleagues in the other place seeking to identify the rationale for this particular measure as one that would deal with liquidity management and, on the other hand, you have the hon. Minister in the Ministry of Finance telling us it is developmental purposes? So, I do not understand what is taking place. You are not singing from the same hymn sheet.

Sen. The Hon. C. Enill: The answer to that, Mr. President, is very simple. When you are managing the economy, much of it has to do with what the market is demanding at the particular point in time. As I understand, the Minister said that because of the tenor of these instruments, they were more attractive than using the Treasury Bills Act. The Treasury Bills Act is for a one-year activity and usually when people have a lot of money, one year is not something that they are attracted to. And therefore, what we found here was the instrument that was being used, did not do the job. But there was another instrument that was attractive enough to do so, so we used the other instrument. We have fixed that. When we came on the last occasion to ask for another instrument, that was an instrument that was specifically designed to deal with this particular short-term challenge that we are having here, which was the unattractiveness of the activity.

The way that we develop these instruments is that we look at the market. We look at the investment profile in the market and we try to determine what will attract investors from their current profile, to one that we are seeking to have them deal with in the context of—

Mr. President: Senators, we will have the Procedural Motion now.

Procedural Motion

Tuesday, September 09, 2008

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 completion of this Motion and the other.

Question put.

The Senate voted: Ayes 14

Noes 11

AYES

Enill, Hon. C.

Annisette-George, Hon. B.

Browne, Hon. M.

Joseph, Hon. M.

Manning, Hon. H.

Piggott, Hon. A.

Narace, Hon. J.

Dick-Forde, Hon. Dr. E.

George, W.

Rogers, L.

Melville, Miss J.

Cummings, F.

Annisette, M.

Drayton, Mrs. H.

NOES

Mark, W.

Nanan, Dr. A.

Charles, Dr. C.

Kernahan, Dr. J.

Sharma, Miss C.

Deosaran, Prof. R.

Procedural Motion

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Seetahal SC, Miss D.

Ramkhelawan, S.

Baptiste-McKnight, Mrs. C.

Nicholson-Alfred, Mrs. A.

Merhair, Miss G.

Question agreed to.

**DEVELOPMENT LOANS ACT
(INCREASE IN BORROWING)**

Sen. The Hon. C. Enill: Mr. President, the Motion before us simply seeks to continue to provide to the Government in the manner set forth in the legislation, the way in which it can continue to do its business within the context of the procedure established, and I would recommend to this Senate that we support this particular Motion.

I thank you. [*Desk thumping*]

Sen. Dr. Carson Charles: Well, Mr. President, if the Government wants to know what it is doing wrong, I think it is pretty obvious. If it wants to know why the country does not understand what it is doing and why nobody is participating in its grand programme to achieve Vision 2020, I think you had a good example a while ago. The unnecessary sabotage of the debating process, that is it.

Hon. Senator: [*Inaudible*]

Sen. Dr. C. Charles: I do not know if you can follow it, Minister. If you cannot understand what I am saying, well, I am sorry. For matters of great urgency and so on, one does these kinds of things, but not when one cannot understand what is the crisis that would befall us if we had an opportunity to debate the matters that obviously many persons want to. Never mind. I do not think I will spend the time in my little contribution here debating that issue with the Minister. Another time.

Mr. President, I interrupted, with the permission of the hon. Minister, his contribution, to ask a question because it is really a difficult thing for me to understand. He gave an explanation, but I do not think the explanation suffices and I think it must be something that even the Government must be concerned about. If six or seven years ago our annual budget was approximately \$18 billion and now we have annual budgets well in excess of \$40 billion, it is difficult to understand how this structure of Government's spending has remained the same or

put it another way, how Government's expenditure profile has remained so tight, that it is unable to identify sufficient revenues within that recurrent budget for the purpose of directing such revenues into activities that will truly transform the economy of this country, especially infrastructure.

It is difficult to understand. Is it when the Minister speaks about the expenditure on education, health and so on, that one is spending so many billions of dollars on these, that in fact that is the reason the structure has remained the same? Is it that the social programmes that the Government has embarked on, which he said that they must now review—they now acknowledge them, so they must review—are so costly, that in fact that is the direction in which we must point the Government to finding a way to extricate itself from what is obviously a losing formula? I say it is a losing formula because it seems to me the product we have of all of this expenditure is what we see every day around us, and it cannot be if you are actually following the path of Vision 2020, that these are the results we get in our everyday lives. Either something is wrong with Vision 2020 or you are not following the path.

It cannot be that you are following the path. You are spending money on the things that you should be spending it on; you have a plan and a programme; and yet you have such difficulty in every aspect of everyday life, whether it is in high prices or it is in terms of the quality of jobs, or it is in terms of the level of flooding or the loss of the productive sectors outside of energy.

Virtually, in every aspect of national life, in the state of our road infrastructure for example, there is no area that we can identify even in our environment in which we see such improvement that would justify these billions that have been spent over the past several years. So, I am saying that something must be wrong either with your Vision 2020, with the way in which you are implementing the vision or what you are doing on an annual basis towards this vision, because the actual results that we see every day are not in keeping with what you tell us. Is it the vision you have for this country?

The Government is asking for permission to increase the ceiling of borrowing and the only reason we should be concerned, is if we are not sure that the Government is borrowing money for the right things. The Minister in the Ministry of Finance identified two reasons really, and one being, as an instrument in liquidity management because he said a number of instruments, and this is one.

Sen. Browne: I said it was used that way.

Sen. Dr. C. Charles: It was used that way. You do not propose to use that way anymore?

Sen. Browne: No.

Sen. Dr. C. Charles: But the \$4 billion, are you supposed to convert that?

Sen. Browne: And it will remain isolated.

Sen. Dr. C. Charles: It will remain isolated?

Sen. Browne: Yes, that is correct.

Sen. Dr. C. Charles: That is by executive action, not by any legal instrument.

Sen. Browne: Yes.

Sen. Dr. C. Charles: I do not want to question your sincerity, so I would not do so. Let us assume that your word is good, and in fact you would leave it sterilized as you say you will.

Sen. Browne: [*Inaudible*]

Sen. Dr. C. Charles: No, you are not taking it under that instrument. You are not moving it there. You are leaving it as money raised under the Development Loans Act. It is only by executive action and not by legal necessity. That is why I am volunteering this magnanimity really and saying that, let us assume that what you say you are doing, is what you will do.

The second point really has to do with the funding for development projects. The question there really is what are the development projects that you are going to be implementing?

6.30 p.m.

I did get the impression, in identifying these areas, that there was not anything really specific. I cannot tell what is specific about the various areas in which development is supposed to take place; specific projects which are ready, which have come to the stage at which you are going to spend these moneys on those projects.

If we start with the water supply system, are there projects that have reached a stage of maturity on which you are actually going to spend money? We have heard a lot of talk about implementing the desal plants, building the desal plants. Do you have projects that have reached the stage of maturity that you are actually going to implement, you are actually going to build desal plants? There is no

indication that you have reached that stage with any of them; not in the water sector. This is quite apart from the fact of whether that is really the best way in which to win water.

I have a difficulty understanding why we are seeking to win water from the sea. Why in a country which is blessed, and maybe cursed, by so much rainfall—maybe it is too difficult for the Government—we abandon the important task of seeking to manage water, when we obviously have it in abundance, and instead you go to the sea to win water? A desal plant is really an expensive way of winning water, and in a country which is blessed with adequate rainfall, to the point where we do not even know what to do when the rain falls, because water is coming through the windows of some people's houses, it is difficult to see why you do not try to harness that water and manage it so that we would have adequate water supplies. Why do you want to abandon that? There is a nexus between managing water, as per preventing floods, and winning water.

Drawing water from underground wells, as difficult as that is to manage, is one way of reducing the surcharging of the soil, which leads to flooding. Tapping the water supply in the rivers by damming is one way of reducing the deluge that we face these days, every time the rain falls. It is also a way of securing water supply. There is a nexus between the two, but it does take some conviction that you can actually manage the water system in the country.

Water is something you are supposed to manage, both from the flooding side and the winning of potable water side; they are both part of the same story. The Government is really abandoning that and seeking to go in the sea and take the water out, via desal plants. I suggest to the Government that it is really something it should consider, in the same way that someone seems to have abandoned the idea of finding that 40 per cent. It was 50 per cent some time ago, and it is 40 per cent now; but the Water and Sewerage Authority (WASA) has not embarked on a level of investment in establishing a new distribution system that it needs to embark on so that we do not lose 40 per cent of the water that we currently have. Is that not an area to which they should be paying some attention?

Is it that the Government is avoiding all the difficult things and tackling what appears to be easy or quick fixes? Is that really what the problem is? Is that the reason you want to abandon the idea of trying to manage water in a holistic way, but go to the sea to get it? Is that why WASA does not even speak about trying to get the 40 per cent of the water that it is losing right now, because it is too hard to redo, repair or even identify what is wrong with the distribution system?

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I am suggesting that you cannot duck those things. If you duck those issues, as difficult as they may be, it may be, in fact, that the problem the Government is facing, the real issues in the country are not so much the big expenditure issues, but there are other kinds of issues that you have to address. If you do not address them then throwing money at things is not going to solve your problem. That is just talking about water and WASA's problems on the surface; I do not really want to go into it.

Maybe the energy czar is the man to call to deal with WASA, although they say that he does not have any power; of course, we know better. It is good for a man to have power, and for the man who has power to have sense. I am not one of those who would argue against any particular man having power and influence. [Interruption]

Sen. Seetahal SC: Man and woman.

Sen. Dr. C. Charles: Yes, woman as well. Does the masculine not include the feminine? It is good for men and women to have power, if they know what they are doing.

I will not argue with any particular individual who has influence or power in the Government or in the whole set-up of public administration, if he knows what he is doing. I am told that the goodly gentleman has been a loyal advisor and has made some sense along the way. Maybe you should send him to take care of water as well, because water is in a bad way, and somebody needs to make sense of water. [Interruption]

Sen. Browne: He is on the committee for water.

Sen. Dr. C. Charles: Somebody needs to make sense of water. We cannot keep on complaining about WASA all the time.

Sen. Browne: [Inaudible]

Sen. Dr. C. Charles: Well you are an economist, that is not so bad. You are a finance man, an accountant; that is not so bad either. [Laughter]

Mr. President, the point I am making is that these are important issues to address. When we talk about development, you are talking about development financing. When we talk about development, it is not only about spending large amounts of money; the Government clearly knows how to spend large amounts of money, but that is not what it is all about.

The problems we are facing do not have that much to do with how to spend billions of dollars. The problems have to do with the hard issues that are being ducked; the same issue the Minister of Energy and Energy Industries spoke about a while ago, having to do with the fact that when you say that you created all these jobs, you have got jobs and persons do not want to apply for them, they do not want to fill out a resume. That is the same issue; the most fundamental of which has to do with the fact that you are investing in everything except what would transform the country; or if you are investing in it, we are not seeing any results, because that is the most important thing.

We are an energy economy; great, we have been an energy economy for a long time. There was a time when we were very passionate, including Members of your party, about transforming the economy from being so dependent on energy. Now, because of the power of energy, we appear to have reached the stage where persons have given up. We do not see any passion about transforming the economy from being energy dependent; instead we hear excuses as to why we have a deficit in the non-energy sector, and while that deficit is growing, we hear excuses. The deficit on the non-energy side is growing because the energy sector is growing; that is what we hear. That is not good enough.

It is not good enough to tell us how well we are doing as an energy economy, when we know the real issue for the country is how to transform the economy from being simply an energy economy. That is the real issue; that is, virtually, the only issue, as far as the economy is concerned. We do not care how well you are doing as an energy economy. Our only concern really is how you are going to transform this economy from being an energy to being one that is more diversified. That is the only issue, as far as that is concerned, and that is my point.

Therefore, it does not have to do with the fact that some years ago somebody predicted that oil and gas were going to be finished in six years and he was wrong. Who really cares? Because someone was wrong 20, 30 or 50 years ago about their predictions on energy supplies going down, does it mean they are wrong right now? Is that the gamble? I keep hearing this argument. It makes no sense that someone predicted how many years ago that we were only going to have six more years of oil and, "Oh, it lasted so many years." They were wrong.

What has that got to do with whether he was wrong or right now? We cannot gamble an entire country's future, its security, its stability and well-being on whether he might be wrong again; we have to do better than that. Forget those puerile arguments and let us deal with the fact that if the only source of

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information we have on predictions concerning the supplies of gas in the country and how long they would last, at current consumption rates, is the Ryder Scott Report, if we do not have any alternative source, then we have to go by that report.

In fact, I have to ask the question: Why did the Minister of Energy and Energy Industry Industries itself, before the Ryder Scott Report came out, give us its own predictions of what was the expected life of our current supplies? It should be doing its own planning regarding energy supplies. If you are doing energy projects, you cannot tell me that you have not made projections about energy supplies. You must have had your own projections about energy supplies long before Ryder Scott, but you did not share it with us, and the only time we got information was from Ryder Scott. If that was the only source of information, then we have to use that until you give us another source. Do not tell us about who was wrong how many years ago and that they might be wrong again.

We are concerned, because if it says that we have 13 years again to go, we are justifiably concerned that the business of transforming the economy from being simply an energy economy is something that should be addressed as a matter of urgency. That is what we are concerned about.

Let us look at other areas of infrastructure; things that we should be spending our money on. The Minister mentioned the rapid rail. When I did my undergraduate degree at the university in engineering—and the current Minister of Works and Transport did his undergraduate degree in the same place, at a little different time. [*Interruption*] No, no; we did not get the same result at all. [*Laughter*] Poor "fella", at some point he joined the PNM. When he did his undergraduate degree, he was not with the PNM, but he joined them at some time.

His father was one of my professors, a well respected man in the Faculty of Engineering. We called him "Am-bert" at the time, we could not use the name Imbert; I do not know if the national community knows that. The man's name was supposed to be pronounced "Am bert"; just a bit of information for his colleagues. [*Laughter*] When you are in politics, you have to accept everything, so he has to accept being called "Imbert"; that is an aside. [*Laughter*]

The point I am making is that I did my undergraduate degree and there was a course called "Fundamentals of Engineering"; it is a compulsory course. Listen to the term, "Fundamentals of Engineering". What was the course about? The course was one in which they taught you how to identify alternatives, in terms of

any project that you are going to pursue, and how to compare the economic feasibility of these alternatives. One of the most fundamental responsibilities of an engineer is to provide the most cost effective solution.

The difference between an engineer and some other builder, for example, is that someone could put up a building and just throw steel into it and say, "Well I think that is enough; I do not think that you need more." Whereas an engineer should be trained in determining what the right amount is; the minimum amount that would give you the protection you need.

So we had this programme that we had to do, "Fundamentals of Engineering"; it really was a course dealing with the economic feasibility of projects. So that if you, as a transportation professional, thought that you had a traffic problem to solve, and one possible solution was to build a rapid rail, that would be identified as one possible solution. You would identify other possible solutions, in very much the same way as when you are going to get supplies in the public sector. You have to get, at least, three quotations and compare them, just so you could say that you have something to compare and, therefore, there is some basis on which you could say that one is, in fact, a reasonable one to go with, because you have something to compare. They make you get three quotations to compare them and see that the one you want to go with can beat two others out.

In the same way, you could not just pick up a project and go with; you had to identify some alternatives; different ways of solving the problem that is before you, for example, a traffic problem, congestion, public transport, and so on. So you identify the rapid rail as one, and you would identify other ones.

In this programme they taught you, at least at the undergraduate level—some of us would have gone further later on—how to compare projects with each other, whether it is net present value, an internal rate of return or whatever criteria you use, so you could tell what the best project is. You could put into that any of the factors you wanted that you could quantify, whether they had to do with saving travel time, even for convenience we found ways of quantifying in terms of determining what was the best project.

It is a fundamental abandonment of professional principles for a Minister of Works and Transport to select one of the most expensive ways of providing public transportation, provide no feasibility study, make no economic comparison to any other option or alternative for solving the problem, and then seek to saddle this country with billions of dollars in debt, with a commitment to more billions in recurrent expenditure to maintain expensive plants that you are going to establish.

6.45 p.m.

All of it is to be imported; all would have to be maintained by people from abroad initially. I do not know how you are going to travel from one point to the next if you are going on a rapid rail and you cannot stop at all the different intermediate points. No one understands how it works, and yet this is one of the projects identified here casually in passing—rapid rail.

We have reached the stage in the country where you can just mention a few billion dollars and it becomes a project, and the population is now so tired. They have been beaten down so much that people cannot sustain their complaints to the Government that it is not providing any relevant information to support its commitment to spending these billions on these projects and after a while they get tired of doing it.

Those of us in politics cannot get tired of doing it, that is our duty, we do it every week if we have to, but the majority of people in the country after they complain a couple times, and they ask if it is really feasible and why you are spending so much money on this and you ignore them, they cannot keep on doing it all the time.

I am appealing from a professional point of view and saying that before the Minister was a politician, he was trained as a professional engineer and he should pay attention to the fundamentals of his professional training. I will deal with that at another time in a comprehensive fashion, but I mention it today in passing because it is one of the projects identified for expenditure of these billions that we are going to raise under the Development Loans Act—rapid rail.

Road expansion projects—well I do not know which ones are those. I suppose it refers to projects which have not really come to a state of maturity because it has been many years since there has been talk about all these various road expansion projects. And most of them are good from a planning perspective, I do not know about the feasibility of the various projects, but from a planning perspective they are good to provide connectivity, highways to go to various places and so forth. But it has been years since we were supposed to have many of these projects implemented, and I think it will be many years again—like the water taxi—of talk before we will see them. So I am not sure if they are really going to take any of the money they are raising here. It might just be talk, it might be just money on paper somewhere and year after year you cannot find a way of spending it because—

Where is the San Fernando/Princes Town Project? Why are they not ready yet? Why can they not start building the road? It has been so many years; I was a consultant on that project for so many years back in 1985 or somewhere in 2004 or 2005. What about the other ones off the East-West Corridor? We do not know what is going to happen to that one with all the stuff standing on the side of the highway when you are going to Arima. It is just standing there and nothing is happening so we cannot extend or widen the highway to Arima and Sangre Grande.

All these have really fallen into the realm of pipe dreams because someone somewhere does not know how to implement anything in terms of road infrastructure. And sometimes we feel we are debating rather theoretically because for every budget I suppose you collect a lot of money and then you really cannot spend it. I know the system; I had been part of it in the past, projects can never mature although they are down on paper. You may be raising the ceiling and hoping to raise all this money and have to do what the Minister of Finance does not want to do with it—you might have to put it in the Central Bank and leave it there. That is what you may eventually have to do with it because you cannot spend it on any projects if they are not ready.

Electricity generation—I have no quarrel with that. I suppose we do not have a double electricity connection in the country anymore because we are not going to have all these various smelters, but clearly there is still a demand that we have to satisfy, so one cannot complain about the need for electricity generation. And at least, in the area of electricity, there obviously has been some attention by somebody who knew something so that we do not have the days as bad as they used to be with blackouts and outages. We hope those things do not return, even though many persons are complaining these days, we hope it is not a sign of things deteriorating.

Mr. President, housing stock—I want to say a word to the current Minister of Planning, Housing and the Environment that I hope the term reflects the approach that the Minister is going to take and not follow in the footsteps of her predecessor and simply build houses. The Government can boast about building houses, but I do not think it can boast about building communities, and settlements, I do not think it can boast about even enhancing the existing settlements; and I do think that is part of the responsibility of the Minister of Planning, Housing and the Environment. So there are other areas to attend to instead of building more and more physical units.

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If at least those areas are attended to, it will justify your continuing expenditure of large sums of money on building housing units and we will not have to say like we said about your predecessor, that he is building them all for voter padding. We will not have to say that because there will be evidence that you are building sustainable communities and settlements that actually work and tackling therefore, what always seems to be the problems the people avoid tackling, the real issues of development.

The real issues of development, I dare say have less to do with the number of physical units you build and more to do with the quality of communities that are established and the quality of settlements, or even the level of independence that the people who live there have. If you give people everything, then do not expect them to be part of your dreams, do not expect them to exercise any level of independence. In fact, I dare say that in Trinidad and Tobago today, part of the level of dependency, what we call the dependency syndrome is probably higher now than it was in the past, and you cannot tell me you take no responsibility for that and it is just an unfortunate by-product or something. That is not good enough.

Clearly, if you have money, as any rich parent who comes into money knows that the more money you have, the more difficult it is to motivate children. The same way in the country, the Government has plenty money, it is more difficult to motivate people to get up and do things on their own. But it is not good enough to say that nobody will fill in the forms, or do the resumé and do what is required to get the job. That is not good enough because the most fundamental issue of development has to do with the people, and if people are not part of the programme in that they simply see themselves as beneficiaries collecting something, then you would have failed at the end of the day with all the billions spent and borrowed and we will not be able to sustain any of it because sustainability has to do, not only with building the non-oil sector, but it has to do also with what you get out of your investment in people.

I have a serious problem with the fact that there is no sign that there is development or growth in entrepreneurial activity in the country. We talk about China and India and what they are doing, and they are making a great impact on the world, but they are not doing so because the price of oil went up, or the price of any particular product that the Chinese make went up. They make everything, if you look around your household you will see everything is made in China, halfway across the world and that is because of the entrepreneurial spirit of the people. And India has been on that path for decades, of developing the entrepreneurial spirit of the people. No matter how many billions you raise and

spend, if your people are not developing this entrepreneurial spirit, then it is a waste of time. It is going to end in failure and more and more dependency with a population simply with their hands out, collecting money and benefits, whether it is CDAP or whatever, all of which is justified.

CDAP is great, health care is great, but do you know the most fundamental right now with respect to inflation is the fact that all the money is being spent in increasing liquidity but not increasing the production of goods and services? I am sure the economists will agree with me on that because it has a lot to do with whether you are able to increase the quantity of goods and services.

So the Government wonders why we talk about it spending so much money, the problem is not how much money it spends, I do not think that is the problem at all. The problem is what the result of the money it spends is. If you spend your money on things that do not increase the quantity of goods and services in the country that all this money is following, then you are bound to get inflation. And what you are doing right now in fact, whether it is via the Treasury Bills Act which you passed recently or under the Development Loans Act, you raise money that you cannot use and, therefore, have to salt away, the same effect. However you do it, you are mopping up liquidity, that is the reason. You are going to mop up liquidity so you put pressure on the individuals and the private sector because interest is going to go up in the banks, therefore you suck up the liquidity because mortgage rates are going up already in the country, and interest rates are going to go up in the banks on everything. Therefore, you suck up the liquidity available out there and people cannot get money borrowed at reasonable rates because they are going up all the time. So the only big spender is going to be the Government.

If the Government is going to spend its money on activities which do not increase the goods and services in the country, then it will continue to drive inflation up. So you will be driving inflation up still because you are not increasing goods and services with your money that you are spending and you are the biggest spender, while at the same time putting pressure on people and the private sector, driving the interest rates up which will only have the same effect, at least for the short term of increasing inflation as well.

So I do not see how you are going to get the result that you want unless you address the more fundamental issue which is—I believe when the Central Bank Governor said stop spending so much money, I do not think he really means do not spend the money on important things. I think it has to do more with what you are spending the money on, or how you are spending it. If you are going to spend

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\$1 billion on CEPEP, for heaven's sake, get them to build some agricultural access roads because then the money will not be going into unproductive activity. I am not blaming the CEPEP workers. It is great to see them working along the sides of the roads, some of them are quite diligent in what they do, some are very hard-working, but you have them doing useless things. Cutting the same grass that has to be cut next week.

Sen. Joseph: You want it to grow up? It has to be cut.

Sen. Dr. C. Charles: Really? Since when grass always has to be cut? Do you think you have to cut every grass that grows in the country? Where has this come from? Why do you think you have to cut every grass that grows in the country? I saw CEPEP workers at the side of the Main Road in Santa Cruz weeding the road. They do not even know, nobody has told them they cannot weed the side of the road, they will cause it to slip. Leave the grass for heaven's sake, if you have to cut it, cut a little bit of it and leave it to grow on the hillsides.

Do you think you have to remove all grass you see everywhere? No. I suggest Minister, you do not have to. Even though you think it looks nice to have low grass, get the priorities right. It is not a laughing matter. It is far more important to build an agricultural access road, to provide some irrigation for farmers. There is no irrigation system in the country. There is flood whenever rain falls and in the dry season there is no irrigation, so they cannot get water for their crops.

It is far more important to use your CEPEP workers to build an agricultural access road, or to provide some irrigation channels than to cut the grass. We have to get the priorities right, that is what I am saying. Your problem is not that you are spending money; it is what you are spending it on. You are spending it on too many things which are not delivering an increase in the production of goods and services in the country, and now, by your mopping up of liquidity, you are going to put pressure on individuals and on the sector which might be the ones more likely to spend money on the production of goods and services while you continue to spend your lion share on producing nothing, and that is the fundamental problem you have to address.

Mr. President, Caroni (1975) Limited lands, we always like to hear about the Government's intention to do something on Caroni lands even though it is taking forever, but it is always better late than never. Yes, they do intend to spend some of this money on developing Caroni (1975) Limited lands for what—I am sure others will deal with that matter of what you are actually going to do on it. The Government always believes in big projects as the answer to things. There is

nothing wrong with taking examples from other countries, look at the countries that are growing rapidly and see what they spend their moneys on. You will see how they spend it on their people, in getting them to do and run things and to be able to compete with the best, not only by educating them in schools. That is not enough.

7.00 p.m.

So take an example. I do not mind if we chose a progressive country and said let us take some examples from them. What is wrong with that? Therefore, if you are spending money on Caroni lands, then spend it on agriculture in general in the country where there are farmers who already exist. You can do a lot with farmers who already exist. They are a little difficult to manage, yes; and to unite them, and so on, it is difficult and you might think there is no room for the small farmer in today's world, but there is room once you unite them. You can have them organized in cooperatives or in large groups so that you can get attention to the things they require in order to increase their production.

They still require market research and market availability; they still require assistance to be able to meet a demand whenever they actually get a market, because if people are not united they cannot hold a market when they get one, because the moment something goes wrong with this particular crop this season, that is the end of it. He loses his market.

So we know the whole story about uniting people in order to be able to secure markets and hold markets. These are not things that the Government is not aware of. Or if Ministers are not aware, there are officials; there are people in the country who are aware, who are knowledgeable in the field of agriculture and you can use the expertise that those people have, but you must have a commitment to working with the difficult issues, not just bypassing all of it and going for the megaprojects where you can invite someone from another country to come and establish the megaprojects here.

That cannot be the solution. You have to face the difficult issues and try to manage the people and motivate them to do what they have to do. In our country, which is a small one, where no one in this country has 10,000 acres of land somewhere that he is farming, it is a whole lot of small holdings, anyhow you take it. You have got to face the issue of uniting farmers and uniting people to work with them. You cannot avoid that in trying to develop the agricultural sector. Although it looks hard; it looks like it is easier to bring in some people and do some megafarms, you cannot avoid going the hard way.

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I do not know if the Minister went into any other specific projects; he did not mention any specific areas where there are projects, although no doubt there are many others that Government may be considering. But there was mention about all the comfortable surroundings ministries need to have and so on, and one cannot argue with that, as to whether you have to build new buildings to accommodate ministries. I do not think you can argue with that too much. We have our arguments with certain pet projects of the Government, but that has passed. We have said enough about those pet projects, I think; I do not feel like repeating them this evening. They just give the wrong signal; that is all, and signals are important if you want the country to be part of some kind of development thrust.

More than anything else, you cannot try to develop a country by yourself. You cannot be talking and doing something and so on, and the rest of the country is doing something else and think you are developing the country. You have to be at one with the country; the country has to be with you on what you are doing. I do not think right now the country is with you on anything. I mean, sure, on voting day, because of the divisions in the society people may vote for you, but that does not mean that they are with you. They vote for you today and tomorrow they are protesting. They are not with you.

Sen. Browne: You understand the problem.

Sen. Dr. C. Charles: I know. That is how the country is. They vote with you today and tomorrow they start to protest. But you cannot abandon the country because of that. You have to find a way to get people with you and the people would not be with you if they do not think you are addressing their problems, and right now people do not think you are addressing their problems. People do not think you are really trying hard at solving their problems. That is how it is in the country right now; that is how people feel.

Does anybody understand why after so many years we still have to talk about beds in San Fernando? Nobody understands that. Maybe the Minister does; maybe the technicians do. I do not know. Maybe somebody understands why it is still an issue, but I could tell you I do not and the public does not understand why it is still an issue; why you could spend billions of dollars and it could even be an issue that we should not even talk about.

So you have got to address it and find some solution to that. Is it that we have to go and build beds and carry them there? It is that you need more space to put the beds? Why are they still talking about beds?

Sen. Narace: Mr. President, many people speak about beds as if you could go by Courts and buy 18 beds and rent a tent and if you put the 18 beds, 18 more people would get beds. Associated with a bed is service and a number of other facilities, and what occurred is that Point Fortin's hospital has not been able to properly serve that area. Part of our plan right as we speak and if we receive the Cabinet's approval before the end of this year, we are going to give out the contract for the Point Fortin Hospital, which would be a 100-bed hospital with all the services so that that will relieve the pressure on San Fernando which currently serves almost 650,000 people.

In addition, what we do not realize is, we now have an ageing population and we now give a wider range of services and we are now serving a whole lot more people. That Mount Hope Hospital, when the NAR was in government, was a hospital you had to pay to go into. Today it is open to the public. So a 171-bed hospital moved from seeing, say, X people to 5X. Remember now we are doing heart surgery, angioplasty; all kinds of other services. The neurology department is—

Sen. Dr. C. Charles: I get the point and I hope the Minister also gets the point—

Sen. Narace: I know you are a decent man.

Sen. Dr. C. Charles:—which is that this is the first time that I am even getting an explanation as to why—I would not say whether I accept it or not but I am saying it is the first time I am actually getting an explanation concerning this issue of beds, and I am not really making the issue by way of personal complaint or even complaining on behalf of us here; I am saying the real issue is that the population gets this thing about there are not enough beds in San Fernando.

An employee of mine got a needle stuck in her foot at home—a domestic accident—and they could not find it. You would get scared if that happened to you. It took her days to actually get the surgery done, because every time she went to the hospital they said: “We have no bed.” Imagine, you have to go back home and then come again and go back in the same hospital until a few days later you actually get a bed for them to actually go and find this thing and say: “Oh, you are lucky; it is still right there.” This is a reality.

So I am saying people do not understand this thing about why there are no beds in the hospital, so you have got to give people something that will make the population feel you are really with them. People do not think that the Government is attending to anything that concerns the people. Notwithstanding the fact that it is our duty to show the population how bad you are—we are confident that we would be always able to do that; notwithstanding that, I am sure even with our

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efforts, if you make some effort at it yourself, you can actually show the people, not in glossy ads, and so on, but in simple terms why some of these things are the way they are, and more than anything else, you can actually solve some of these problems without taking a next decade, so the population would not feel so frustrated and so out of it. Because I am making the point again, you cannot develop a country if the people feel totally alienated from everything that is going on around them.

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. Dr. C. Charles: Thank you, Mr. President, and I thank Members of the Senate. So I am making a plea this afternoon that while we are talking about these figures—all this money we are talking about—it is not just political rhetoric, that we say the Government is always throwing money at problems. That is not just political rhetoric. It actually is the way it comes across. You tend to say, “We spent so much on this”, or “We are spending so much on this”, or “We have allocated so much on the other”, and then people cannot see the result. It may be sometimes you will solve the problem, but nobody knows you solved it. The people do not know that you have solved anything or they do not feel part of it. The problem we have in the country—and I am not accusing you of making this problem; I am accusing you merely of not doing enough to solve it, but I am not accusing you of creating it; it is part of our history and part of the whole reality of what we have to deal with as a country. To develop the country more than anything else is to transform the way people relate to the State, to the larger body, to the whole. It is to change that, because the energy behind development is not Government. Government can only do things to make it happen, but it is bigger than Government.

In every one of these countries in the world that we look at as the emerging economies of the world, which have not just obtained their wealth by way of the increase in the price of energy—because we put ourselves in that category and we feel so good about it; we are part of these emerging economies; the new tigers, and so on. But, really, our condition is the result of the increase in the price of energy, not by anything else we have done here. But in every one of those countries where you see that has happened, it is the people who have been the driving force behind it happening. So it starts sometimes almost imperceptibly.

Like in China, for example, it starts almost imperceptibly. Government policy, yes, but the people, and then after a while you begin to see it on such a scale; it is a raging fire, because it is the people.

I am saying that has not happened here and that is something really urgent for us, and if you are spending the money, there is no evidence that you are spending the money to do that. You are spending the money to give this and to give that; to hand out this and to hand out that and you are probably solving a lot of problems on a temporary basis or you are putting a lot of plasters all over the place on all these little sores we have. So we have the needy people who need something and we are giving them all the something they need, but at no point are we spending enough on transforming the economy; on transforming the country, even transforming the relationship between the people and the State; between the governing and the governed. You are not even transforming that.

Even your actions this evening of imposing your majority, which by accident you happen to have this evening—

Sen. Browne: There were 11 Members on this side. We were outnumbered by both Independents and yourselves.

Sen. Dr. C. Charles: No, I am not making that point at all; I am making the point that there are times when you divide the Parliament and times when you do not. That is what I am saying. Take it or leave it. There are times when you divide the Parliament and there are times when you do not. And if you think you should divide the Parliament on a matter of whether we should debate a particular matter tonight, well, so be it. I am pointing out that you really ought to do a better job at carrying the country with you. You have not been doing a particularly good job so far. Do not confuse it with the election results.

When we unite the Opposition forces and we defeat you at the polls, which is a pretty automatic thing, we will be faced with the same challenge. *[Interruption]* We will be faced with the same challenge; how to carry the country. Winning an election is not carrying the country. It is a totally different thing altogether, man.

Hon. Senator: When are you uniting?

Sen. Dr. C. Charles: You want to get into the details now. The last time that we united we took a chunk of the PNM, you know. So watch out. Many years ago when we united, we took a chunk of the PNM. *[Interruption]*

Hon. Senator: And we took it back.

Sen. Browne: You are still recovering.

Sen. Dr. C. Charles: Well, what we did is lasting in terms of the structure of the country. You build on things. Everybody builds on what is there before; that is how it is supposed to be. I am just telling you what I think you should attend to along the way.

Just one more point really, and that is that we have to find a way to make agriculture attractive.

Sen. Browne: Prices.

Sen. Dr. C. Charles: I know it is not prices, but it is not attractive. It is hard work. In many cases the family traditions are lost because when the young people come out of it, you cannot get them to go back into it easily. Also, it is not secure at all. Prices are high today; they are low tomorrow; a flood comes and takes what you have and that is the end of that. There is nobody to turn to. Praedial larceny ravages the entire place. It is not an easy problem to solve. You do not see any long-term prospective. The job itself is not considered to be attractive or the hot thing to do for young people.

You have got to find a way to make it attractive. There are two things that make agriculture attractive. One is people being able to operate agriculture like traditional big business, either because they have a particularly large holding and they can run it like a big business or because they come together in a big cooperative and they can run it like a business and offer jobs of various kinds to people, and so on. Not all of them would be going into the field and doing the farming; some would be doing all kinds of other jobs. That is one way.

7.15 p.m.

The other way to make it attractive is the whole field of agro industry that follows from it. This requires the attention of the Government. If you could spend money on many social things because you think that people need help, do not tell me anything about what the economists like to call distortions. You do not want to create distortions. You can give money to CEPEP or CDAP but you cannot create distortions. You can decide to support any particular area of the economy that you want to support as a deliberate policy of development. You can support agro industry, industries that arise from agriculture. You give it an urban flavour as well, otherwise the urban environment of Trinidad which is very big will not have any interest in agriculture. I thought that I should leave you with a little pointer along the way and there are many other pointers that you can get from time to time.

Sen. Piggott: I am happy to hear that you heed my call.

Sen. Dr. C. Charles: I have many pointers that I can give you. Sometimes I wonder if the Government could do anything with them. Even if I give you, can you do anything about it? I am in a generous mood this evening so I thought that I would give you one.

To end my contribution on a very positive note, although right now things are not looking good in the country, there is time and you have some opportunity still. You have money to do the right thing. You can start anywhere. Start any place in terms of transforming the economy and invest in it. We are not seeing that. We are seeing all these general things with numbers and percentages. That is not it. You can choose any area of economic activity and say that you are going to support it. Put money into that and people would follow it even if for the short-term. They will get into it because there is money in that. You have to use your money to get them started somewhere. That is what I am pitching for.

Food is a problem and prices are high. Choose a particular area and say that you are going to support farmers in a particular area to produce food on the local market and do some agro industry to get other products downstream. Put your money in that and people will get interested. Start somewhere before it is too late. That is my plea with the Government. Start somewhere before it is too late.

Thank you.

Mr. President: Do we have any other speakers? Minister.

The Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. President, I compliment the Senators on their contributions. A couple points were made to which I must respond.

Sen. Mark and Sen. Ramkhelawan made a number of points with respect to the use of the Development Loans Act. Sen. Subhas Ramkhelawan indicated that the use of the Act was inappropriate. Sen. Mark said that we circumvented the law. There is nothing in the Development Loans Act which specifies how it must be used. It specifies that it must be used for general development. It is one of a series of Acts in section 71 of the consolidated laws of Trinidad and Tobago which deals with loans and application for loans. It is to be noted that the Independent Development Loans Act, Chap. 71:03 specifies no limit. The National Development Loans, Chap. 71:06 borrowing from the IBRD and Chap. 71:07 borrowing from the IADB also specify no limit.

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With respect to the limit, I think that I argued this cogently when we presented the Treasury Bonds Act in the Senate. We indicated that the purpose of that Bill was to sterilize debt. One did not know in as much as there were absolutes, the amount of money that would be required to sterilize at any one particular time. We indicated under that Act that there should be no limit. That Act was passed and we dealt with it. I make the point that the General Development Act, Chap. 71:04 was used as a temporary measure over the period 2006 on a number of occasions and occasions which are pointed out in Chart 7, Part II of the *Central Bank Monetary Policy Report* which was published in April 2008 and specifies on page 13, the number of times that the Act was used for liquidity purposes.

In November 2006, a \$700 million eight-year government bond was issued to the public, the proceeds of which were sterilized. In February 2007, a bond in the amount of \$300 million was offered, but due to overwhelming public support, the actual size was increased to \$67.4 million with a maturity of August 09, 2012. In April 2007, that amount started at \$650 million and ended up at \$150 million. On July 02, prior to the passing of the Treasury Bonds Act, a bond in the amount of \$1 billion was brought to the public for auction and eventually ended up at \$1.8 million, making a total of approximately \$3.6 million of the \$4 billion that I referred to.

At that time I indicated that nowhere on the law books was there an opportunity or instrument that gave the Central Bank or the Government the opportunity to take funds and put it into a block to a sterilized account. I have also argued in other places that that is a function of the Government, Central Bank and it is done elsewhere. I refer anyone in this Senate to Her Majesty's Debt Office which will indicate very clearly, that tender bills were used for the same purpose at that point.

Therefore, the issue in this instance is that the Government has given its commitment that it will meet the tenor and obligation of sterilizing those funds and that funds used under this Act will not be used in any other way. Having done so, it is necessary to increase the total limit which is outstanding. At the moment at \$11.8 billion we are close to the top end of the limit and we need to increase it. The argument has been made about why we are raising the limit, unless we specify for what we would be using the money. It is normal that before one undertakes an activity, one ensures that adequate funds are available. One does not start to build a house and then go to borrow money. In reverse order you start with a plan of action; state what is required; arrange financing and then continue along these lines.

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

I attempted to give an indication of the likely development expenditures which will fall under the rubric of this borrowing, by indicating some general inferences.

A number of points were made with respect to WASA and its loss of water. Any review of the international literature would indicate that the standard for water loss or what they call non-accountable water loss in any developed country or well-run country is approximately 20 per cent. It is understood, therefore, that the distribution system of the water company needs to be upgraded and this will require a significant investment. I simply gave an opportunity to identify the approximate cost of the things which will be done over a period of time. The limit is being increased from \$13 billion to \$20 billion in anticipation of the need to borrow and not that the limit was going to be used immediately in these circumstances to borrow for this project. We have indicated that this is a borrowing limit which we are increasing in anticipation of its use. There are a number of projects in the pipeline.

By way of a blank cheque, this country has not given this Government a blank cheque. This Government accounts to the Parliament.

Before I come to Sen. Rahman, let me deal with the point made by Sen. Ali. Sen. Ali asked for some clarification with regard to the numbers on pages XIV and XVI of the public accounts. Sen. Mark also made reference to XIV and XVI in indicating the total borrowing which was in existence as at September 30, 2007. By way of reference I return to the source of my original information, the *Review of the Economy* which sets out the estimated government expenditure and borrowing as at September 30, 2008 when the budget was laid in this Senate.

In Appendix 21, page 56 in that document, the numbers indicated very clearly that the total net borrowing was approximately \$38 billion. The footnote also says that it does not include Treasury Bills and note issues for open market operations. There lies the difference between Sen. Mark's figures and mine. The number shown as open market operations is included on page XVI of the public accounts. That is shown as \$9.2 billion. Technically, that is the amount which has been borrowed by the Central Bank as an agent of the Trinidad and Tobago Government, but does not fall immediately or directly within the accounts which are reported to the Senate, as part of the annual budget statement. Sen. Mark, therein lies part of the difference between the amount that I was saying and what was given.

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Sen. Ali made the point that the statement of the external debt did not give a proper number although it is said on page xiv to be \$8.6 billion outstanding as at December 30.

[MR. PRESIDENT *in the Chair*]

I did some arithmetic. The answer is that clearly, there is an error in the spreadsheet that was used. The figure sums up to \$8.4 billion but it is missing a figure of \$265 million, which I have not been able to account for, but I will be able to find. Clearly, it is an arithmetic error and one in calculation.

With respect to the issue of the Development Loans Act, Chap. 71:04, it turns out that no external bond was issued under that—that is what this Schedule says—at that time. The actual amount \$11.8 billion is still the amount that we are saying as at today's date in relation to the \$13 million which is outstanding.

Coming back to the specifics, in terms of total borrowing, the issue has been raised about the Government's profligacy, blank cheque and a number of other things.

Sen. Ali: I asked the question about page xvi in that summary sheet, the present external debt went down to zero.

Sen. The Hon. M. Browne: Sen. Ali, other than the explanation I just gave to you I am not able to add any additional light to that tunnel. I will have to go back to the spreadsheets which were used to consolidate these numbers to determine the variations and reasons. I will send you a note saying what the numbers were. I shall make that disclosure and pass it around the Senate at a later date. I do not know the difference right now.

7.30 p.m.

Sen. Ali: I have been through the statement of public debt and anything related to 71:04 is not in the detailed statement. Evidently those have been repaid or the debts retired. That is why I was asking whether they are retired and what source was used to pay them back.

Sen. The Hon. M. Browne: I will not be able to give you the specifics at this time. I will make the check and respond to you.

With respect to the issue of fiscal profligacy and the threat that Government was just spending money here, there, willy and non, I want to make the point by looking at the *Review of the Economy*, and I think it is very important that we do. When we look at central government expenditure, which is appendix 21, it is a

very simple matrix and sets out specific and significant numbers. It is very important to note that included as part of Government's expenditure is a line item called capital expenditure. That line item has increased from \$798 million to approximately \$8.1 billion. That line item covers the development programme, the PSIP, the Infrastructure Development Fund, the Road Improvement Programme and a number of other items, but the specific items that are the largest components of those two numbers are the Infrastructure Development Fund and the Development PSIP.

I make the point to say that Government's expenditure profile does include a substantial element of capital expenditure which was not financed by borrowing. In other words, Government has attempted to act responsibly with respect to its borrowing and that is also to be reviewed in relation to its surplus and deficit position.

In fact, under the definition in a recent book called *Promoting Fiscal Discipline*, the Spring Edition, which is issued by the International Monetary Fund, the first paragraph states that during the early 1970s, fiscal deficits and rising public debt have been ubiquitous features of governments' budgetary position. Indeed, in aggregate, fiscal balances of both industrial and developing economies have been negative in each of the past 30 years with an average deficit of about 3 per cent of GDP a year for both groups.

What has been the Government's position? Between the period 1995 and 2008, the Government has been in surplus for each of those years with the exception of four years. The four years for which there was an exception were 1998, 1999, 2000 and 2002. In every other year this Government operated in surplus. There was no fiscal deficit and the Government attempted to balance expenditure with its revenue and to ensure a little bit is left over, the net effect of which was that the surplus as a percentage of GDP amounted to 17 basis points or roughly .17 per cent in 1995, 50 basis points or .5 per cent in 1996, 12 basis points or .12 per cent, -3 per cent as a deficit, -6 per cent, -7 per cent, -.2. In 2003, a surplus of 1 per cent; in 2004, a surplus of .2 per cent; in 2005, a surplus of 2.5 to 3 per cent; in 2006, a surplus of 1.5 per cent; in 2000, a surplus of .2 per cent, whilst it has been managing and reducing its debt relatively and absolutely.

Therefore, the Government cannot in these circumstances be viewed as taking advantage of its position, spending wildly or anything else. It has managed its debt position in a prudent fashion and has not been part of that fiscal profligacy which is noted in the IMF review over the last 30 years. There are a number of other large countries that have been in that position and have recently begun to feel the pain.

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I make that point to say that the purpose of increasing the limit is in anticipation of the requirement to borrow. The reason we have not borrowed aggressively or at all to finance our capital expenditure is that we have been financing that capital expenditure out of our recurrent income. We have not been borrowing.

In addition, it is also necessary for us to consider as we have and we are looking at a number of alternative financing mechanisms, some of which may be off balance sheet. One of them is private/public partnerships and we already have some examples of that in the case of the desalination plant and the power generation capacity. Those are mechanisms that will work and are being looked at in the future. In other words, there will be take-or-pay arrangements and they will try not to be a burden on the “fisc”. Those are important developments.

Having said that, it is also important to create a borrowing capacity. In other words, should you require to undertake additional expenditures where you may not have the capacity to do so, it is important to be able to go to market.

One of the things that Government is regularly attacked on is its lack of planning and foresight. This Motion today is to ensure that the relevant borrowing capacity is in position should it be required. This is not to say that tomorrow morning the Government will go out and borrow \$7 billion. That is not the purpose here today. The purpose is to build the capacity should it ever be required.

I also attempted to indicate the potential projects which are on stream. Sen. Dr. Carson Charles asked if we would be in the position to do X, Y, or Z; whether there were projects that had met certain hurdles. With regard specifically to water—and this is a technique or methodology and I want to answer the question of procurement which was also raised by Sen. Mark—the Government has moved to tighten up its procurement systems in the light of many requests. Water is one such example in which the procurement aspects have been tightened up by way of an inter-ministerial committee which has moved not merely to involve all the technicians, but to ensure that there is a cross section of Ministers who will be involved in the decision-making process and the evaluation process on the basis of the reports that come from a technical committee. This process has been used with great power and effect in the case of the restructuring of Caroni (1975) Limited. It certainly has been used with respect to the purchase of military assets and the offshore patrol vessels and will be used increasingly in a number of areas of capital and public infrastructure projects.

That inter-ministerial committee hires the relevant procurement experts with subject matter expertise to ensure that the very same questions raised by Sen. Dr. Carson Charles—in other words, sustainability, value for money, fitness of purpose and all those technical matters—are dealt with and examined at great length before procurement decisions have been made.

Notwithstanding what the White Paper has said or not yet implemented—and I will deal with that as another matter—steps and methodologies have been put into position to ensure that the Government gets value for money and takes intelligent, rational and well-reasoned decisions that can stand scrutiny. I assure you on that particular point.

Those expenditures are geared toward the benefit of citizens. I made that point particularly with regard to water. It is not simply that the Government is going to run down the road and spend \$5 million or \$10 million and water will come. The necessary procurement devices and the necessary experts are being hired to ensure that there is an adequate process and the relevant decisions are made. As you, an engineer, are well aware, the process of improving the distribution system of this country will require a substantial amount of infrastructural work and that requires adequate planning before we execute.

We are in that position; there is a master plan and the relevant experts are being hired and the desalination being considered for a specific area as well as the development of waste water and treatment systems for waste water so that it could be recycled to provide adequate industrial grade water for use in the industrial plants. That will also be part of the distribution system.

Those plans are in process and that inter-ministerial committee meets monthly to go through the progress made on those projects. That covers not only the question of the distribution system, waste water, desalination plants, but also, as you pointed out, additional wells and additional dams. It is a substantial project and that is being undertaken. That will require a number of financing possibilities. It may require us to go to market; it may require us to borrow long term. We are also looking for partners on the basis of public/private partnerships that will make it viable in the long run. That is a methodology that we expect to use in a number of other infrastructural areas.

I make the point that there is a limit to which the Government can borrow and it is aware of that limit. The Government is also aware of the need to manage the non-energy fiscal deficit. It is looking at it. We also understand that projects once put into the public domain and once initiated cannot be easily stopped or may not

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be stopped at all, because to do so will require you to maintain the expenditure in any event because you have contracts and if you stop the project you end up giving the contractor money for nothing. So you have to continue with those projects and certainly the new ones you take on you have to manage in a fashion which is much more coordinated.

Sen. Mark made the point that there is a conflict between monetary policy and fiscal policy. There always is. That is not new. That is the subject of economics—that sometimes your very blessings are also your curse. There is need to work with it. I trust his training as an economist so I will not give you the story of on one hand and the other hand. [*Laughter*] I suggest we put both hands to work and we need to operate with the fiscal policy in substantial complementarity to monetary policy. That is understood.

There will be times when they are operating in a fashion which may send different signals. We are clearly moving in a direction that requires us to harmonize them. Those efforts are being made as we speak, but I cannot steal anybody else's thunder at this stage. That will come.

Mr. President, I make the point that the purpose for increasing the limit is to increase our capacity to borrow. It is not that we are intending to use that capacity immediately or to borrow willy-nilly. Clearly all the numbers indicate that there has been a progression and moderation in the extent that Government has been borrowing in terms of open market which is clearly shown by the debt/service ratio trending down from a figure of 26 per cent to just under 6 per cent.

So our borrowing capacity is strong, but that does not mean that we will rush out and borrow. It means that we need to have the capacity to do so and that is what this Motion is about. It is about increasing the capacity of the Government to borrow should it be required. We do not want to be in a situation where we will have come to debate a motion with too close a proximity to the fact. We want to put it into position in advance. It is generally speaking the same fashion in which a company negotiates a borrowing line in anticipation of investment expenditure..

7.45 p.m.

I want to assure Sen. Wade Mark and Sen. Dr. Carson Charles that this Government does invest. It is too close and too facile a point to make that all the Government is doing is just sitting down and benefiting from high oil prices and high gas prices. I want to make the point that the development of our gas sector

owed little or nothing to ideas that came from a multinational corporation. We started off very simply by the idea of monetizing an item which was being lost simply to provide electricity and that created a number of other opportunities.

The decision to invest in LNG, when that was taken, was a monumental decision, when the technology was not ripe. Trinidad became a leader, a flagship. Those plants are being replicated elsewhere in the world and we were the first to do it. Those plants represent two different types of technology. In other words, we were experimenting as we went along and it was by no means plain sailing. It represented a substantial investment and a substantial risk for which this country is now benefiting. The persons who pointed us in that direction and who helped in that direction ought not to be vilified in this public domain. The benefits that we are seeing and are experiencing are as a result of very substantial decisions which were made a long time ago, for which we are now benefiting. This Government is prepared to take and is prepared to spend money to build capacity. The difficulty is that sometimes capacity measures take a little while for them to yield results.

In 1981, a new finance Minister who was reviled as being one of the slowest finance Ministers took a decision to assist the industry of Trinidad and Tobago and to allow them to retool. In 1981, this country benefited on the basis of those finance decisions made between the period 1981—1986 and reaped the benefit from the 1990s onwards. That is a result of very, very strong visionary financing positions for which the rest of the Caribbean has envied us. I became aware of the strength of those decisions and the enormity of those decisions when I was speaking to manufacturers and other people across the Caribbean, as they were closing down and going out of business.

It is not true to say that we are not making the necessary investment decisions. We are building capacities, certainly and the human resource level, from which this country will benefit 10 years from now. We may not be able to see it now, but it will come. It will come, both in terms of the human resource as well as the infrastructural developments which are taking place as we speak.

Mr. President, I beg to move.

Question put and agreed to.

Resolved:

That for the purposes stated in the said section, the Government is hereby authorized to borrow money externally or internally in a further sum or sums not exceeding in the aggregate seven thousand million dollars in the currency of Trinidad and Tobago.

**REGIONAL HEALTH AUTHORITIES (CONDUCT) REGULATIONS
(ANNULMENT OF)**

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

Be it resolved that the Senate annul the Regional Health Authorities (Conduct) Regulations 2008.

I seek the support of this honourable Senate to have the Regional Health Authorities (Conduct) Regulations, 2008 annulled. As you would recall, these regulations were laid sometime in July of this year.

Let me, from the outset, put on the record of this honourable Senate that delegated legislation could never be more superior to that of the Constitution of the nation. Not only are these regulations before us repugnant to the various human and fundamental rights enshrined under sections 4 and 5 of the Constitution, I would demonstrate how these regulations violate several fundamental rights and freedoms of the citizens of this republic.

These regulations which were tabled in July were never the subject of widespread discussions or consultations with the key stakeholders in the particular industry. The Medical Council of Trinidad and Tobago; the medical board; the medical association; and the paramedical professionals were not consulted and the Minister has tabled these regulations without engaging in the necessary consultations.

These regulations are dangerously oppressive; restrictive; anti-democratic; and in many instances vague and largely subjective. The principle of natural justice is flagrantly and blatantly violated in these regulations. These regulations provide too much space and room for nepotism, favouritism and victimization. Even though an attempt is being made, I am sure, to promote a more professional health care system and service, I think how these regulations are configured will not contribute to that. The policy framework, as exemplified in these regulations, reflects the archaic approach being adopted by the current administration towards hospital care, generally in the country.

These regulations, in their current form, do not address the delivery of health care but it is really an attempt at controlling the workers, whether they are professionals, technical personnel, middle management and/or ancillary staff.

The question that must be posed is: What kind of health care service do we need in this country? Do we need a 2-hour health care service, where doctors,

nurses and other professionals will be properly remunerated for their services? These regulations in their current form will further undermine the delivery of health care service in Trinidad and Tobago.

Therefore, I want to indicate that I have examined these regulations and the following were observed: the wording is too vague and therefore open to many interpretations; the regulations do not address legal action taken against employees by patients or their relatives; it does not include indemnity insurance coverage; it does not address time off for court appearances; and it does not address time off for members of the trade unions in order to perform their union duties.

In fact, these regulations further politicize the RHAs and health care system by giving the Chief Executive Officer the responsibility of making ultimate decisions. Also, in the regulations there is a provision which I shall elaborate on shortly, where the Minister shall have the final say.

These regulations infringe on employees' constitutional right to freedom of speech, freedom of association and it also infringes on the freedom of the press.

I want to make it very clear from the outset that health care professionals are not children. Health care professionals have their first responsibility to their patients and then to the community at large before any CEO or board. We must understand what we are dealing with when you bring these kinds of regulations. You are not dealing with children; you are dealing with people. If you get sick tomorrow, they will determine if you live or die. They are professionals first and foremost. Therefore, these regulations go against the grain and core of medical practice and will serve to further politicize health care in this country. I think that the country will be poorer, in terms of quality health care in this country.

Therefore, I believe that in the other place the hon. Prime Minister is on record as saying that his Attorney General will review this entire matter and will come before us today and identify if there is need to have these regulations withdrawn and ultimately reviewed.

8.00 p.m.

It is on record that the Attorney General was texted. In fact, it is on record that the Prime Minister and the Minister of Works and Transport indicated to the country that a text was sent to the Attorney General in order to bring her up to speed with this particular matter that we are dealing with this afternoon. I think the Attorney General is fully aware of what we are dealing with this afternoon, and we await her intervention at the appropriate time.

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Mr. President, there is a difference between the Public Service Regulations and the RHA Regulations. Whilst we have been told by the hon. Minister of Health and the Prime Minister that these regulations have been lifted almost out of the Public Service Regulations, there is a difference. They are not identical. In some instances you may have some similarities but, in most cases, they are not identical.

I want to make it very clear that in the case of the Public Service Regulations, there is something called the Public Service Commission, which is an independent commission under our Constitution and, therefore, there is a certain degree of fairness, independence and impartiality involved in that particular jurisdiction as compared to the RHAs where the directors of those authorities are appointed by the politicians; the Cabinet of Trinidad and Tobago. There is a huge difference between the Public Service Regulations and the RHA Regulations.

Mr. President, we know that at the moment those regulations are being revised and reviewed by the Public Service Commission; not by the Minister. The Minister has no authority to change the regulations of the Public Service Commission. That is a function of the Public Service Commission as far as I understand.

I want to deal with some of these regulations in detail so that we can follow some of the implications of these regulations. I want to go to regulation 5(1) and it says:

“An employee shall not—

(a) engage in any activity...”

Now, that is too broad. You cannot have a situation in which you pronounce and tell an employee that he or she shall not—including doctors—

Sen. Narace: Which regulation is it?

Sen. W. Mark: It is regulation 5(1) where it is stated:

“An employee shall not—

(a) engage in any activity which would in any way tend to impair his usefulness as an employee;”

How can you have such a broad sweep in such a sensitive industry where you have professionals working? It is not clerks that you are dealing with. You are dealing with doctors and professional nurses. You cannot treat those people like

your children at home. We are arguing that this provision under 5(1) is too subjective, too restrictive and it contravenes the rights of consultants in the medical service. This is a mischievous provision, and we call on the Minister to have that particular provision completely deleted.

Regulation 5(2) goes on to say:

“An employee who wishes to engage in any of the activities that are described in subregulation (1) shall apply to the Chief Executive Officer for approval to engage in such activity within sixty days of the coming into operation of these Regulations.”

So, you are telling a doctor, a professional person in the health service, that if he or she wants to engage in any activity—Now, what is this any activity that you are talking about? If somebody wants to get pregnant, is that an activity? So, must that person seek the permission of the CEO? [*Interruption*]

The Government is trying to have a broad brush on something. I believe that the Minister knows what he is after. I am saying this is objectionable and this is a very mischievous provision. I want to let you know that the CEO is not necessarily a doctor. The CEO is not a person, as I know it presently, in the RHA's who has medical background experience. The CEO is a person who is appointed by the board, and the board is appointed by the Cabinet, and the Cabinet is made up of politicians. That is what the Cabinet is. It is made up of politicians. This particular provision provides too much space for victimization and nepotism. It seeks to impose a rule to prevent doctors from engaging in private practice. I believe this could be the sting in the tail, that the Minister is trying to control doctors. You cannot control doctors, hon. Minister.

Mr. President, it goes on and there is a possibility again that the environment that the Minister is creating could result in good doctors leaving the service. Professional personnel could leave the service. We believe that regulation 5 should be reviewed and revisited. Doctors are being treated in this regulation as if they are slaves.

We go now to regulation 6(1) and it says:

“An employee shall not call a public meeting to consider any action of the Authority or actively participate in the proceedings of a meeting called for such a purpose or procure signatures to any public petition regarding the actions of the Authority.”

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Now, what is this? How can you tell someone this? The Constitution says under 4(j) “freedom of association and assembly”. That is the freedom of people in this country to associate and to assemble. How can you tell a person who is a medical professional that he shall not call a public meeting? He has a right to call a meeting if he wants to call a meeting. You cannot take that right away from a professional or from citizens of this country! No!

It goes on in regulation 6(2) to say:

“Nothing in these Regulations shall affect an employee’s right to participate actively in any meeting called...which the union or staff association is competent to deal.”

So, my freedom of speech and my freedom of association are being violated. If they are saying that you cannot call a meeting, it means to say that you cannot talk. This is a violation of my rights; freedom of speech; and then it violates my rights to associate with my colleagues which is enshrined in the Constitution. You cannot violate the workers’ fundamental rights. These doctors are champions of the patients cause, and if they see things are taking place they have a right to speak out; they have a right to hold a public meeting. You cannot tell somebody that you have handcuffed these doctors and these nurses! This is not an insurance company; this is not a private insurance company that you are running. This is a public health institution; this is a public body. You cannot do these people as how you would do your children. Have respect for doctors for heaven's sake!

I now go to regulation 7(1) and it says:

“An employee shall not—

- (a) make public or communicate to the Press or to an individual; or
- (b) make private copies of,

documents, papers or information of which he may have become possessed in his official capacity, unless he is required to do so in the performance of his duties.”

Mr. President, they are telling me that I am not to communicate. That is a violation of the freedom of information. You must be able to share information that is critical to the public interest. The duties of the doctor are to protect his patients and himself otherwise they are going to compromise the patient's care.

How can you tell someone who is a professional that he cannot communicate? If it is in the interest of the people that I am taking care of to communicate, I

should have that right to communicate. This is a violation of the rights of the professionals and the rights of the doctors. There are about 12,000 health care workers in the RHAs. If people were to follow these regulations, the Government is training doctors how to lie. That is what it is doing.

It says in regulation 8:

“An employee shall not allow himself to be interviewed on questions of public policy or on matters affecting the Authority unless it is required in the performance...”

That is another infringement of a doctor's freedom of speech and a professional nurse's freedom of speech, and this impacts negatively on their professional duties as doctors and nurses.

Mr. President, hear the classic! I now go to regulation 9(1) and it says:

“An employee shall not respond to questions of public policy in a manner that could reasonably be construed as criticism...”

How do you make a separation between somebody making a statement and it being interpreted as being critical or criticism?

“and which may call into question his ability to impartially implement, administer or advise on Government policy.”

In other words, this rule is saying do not criticize the Government. You must not criticize the Government. The last time I checked, this is a democracy. In a democracy we have a right not only to protest, but a right to criticize. I do not understand where the Minister and this Government is coming from.

8.15 p.m.

"(3) Where an employee has doubt as to the propriety of any proposed publication or broadcast, he shall refer the matter to the Chief Executive Officer."

Now, this Chief Executive Officer is a real “hefé”; this person knows everything, and this person is accountable to a board that is appointed by a Cabinet, and the Minister of Health would have appointed 90 per cent of that board. His members or names would have been supported by the Government. It goes on in regulation 10:

"An employer shall not, except in the case of the official organs of staff associations or professional associations -

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- (a) act as editor of;
- (b) participate in the management of; or
- (c) contribute anonymously to,

any newspaper, statements or article which may reasonably be regarded as a commentary of the politics of the country or the administration of the Authority, without written permission of the Board."

Mr. President, what is this? This is a dangerous provision. How can you tell an employee who is a professional that he or she cannot contribute or be involved in a commentary on the politics of the country or the administration of the authority. Is this a concentration camp? Is this Nazi Germany? Is this fascism on the boil in our country?

This board that is telling you do not make commentaries on politics is a politically appointed board; it is highly political and controlled. Then it goes onto 11(1):

"...shall not receive payment for the preparation or delivery of a lecture, talk or broadcast which was done in pursuance of his duties"

They went on to say:

"The Chief Executive Officer shall ensure that -

- (a) the lecture, talk or broadcast does not have anything contrary to the public interest or inconsistent with the status of the employee;"

Now how does a CEO, who does not have medical background or medical knowledge, know that this particular lecture is going to be inconsistent or contrary to the public interest?

Hon. Senator: The employee.

Sen. W. Mark: The employee. An employee is a professional in this instance. *[Interruption]* An "employee" means:

"...the administrative, technical, professional and other ancillary and support of the Authority."

I am saying that the Government is treading on dangerous grounds. I want to remind the Attorney General that Anand Chattergoon had taken the Public Service Commission to the High Court, because they tried to tell him he cannot talk; he won his case and was awarded damages, because no delegated legislation can supersede the entrenched rights and freedoms of the people in a Constitution.

I am telling you that you are on dangerous grounds and you as the Attorney General must advise the Government that this is oppressive, dangerous, anti-democratic, autocratic and dictatorial regulations, and they must be withdrawn, revised and reviewed. I want to warn you, Attorney General, if you allow this to pass, you will face the courts. I give you that not as a threat, but as a promise.

So, Mr. President, these measures like in 11(1), this Government is on a fast train or on a fast track towards imposing dictatorial rule, and you are seeing manifestations of their ambition and intention in these regulations. If you go on to regulation 12, they are telling you about:

"An employee -

- (a) shall not become indebted to the extent that it has brought or is likely to bring the Authority into disrepute;"

Who is to determine this? This is purely subjective. So, it is saying an employee should not become bankrupt, you are getting into people's business here. Since when the Authority lends money as is indicated in 12(b)? I did not know the Authority was there to lend money. That is an invasion of people's privacy and there are laws to deal with that. You go to 14:

"An employee shall not solicit the intervention or influence of members of Parliament, Ministers, members of the Board or prominent members of the community to support or advance his individual interest in the Authority."

But you are undermining my freedom. So, my Member of Parliament who I vote for; I want to discuss a particular matter with my Member of Parliament, you are telling me, hon. Minister of Health, that I cannot engage my Member of Parliament? This is a joke! This is an affront to democracy, and I want this entire provision to be deleted. It does not make sense. I am seeing where in 15(1), it talks about:

"An employee shall not accept any gift or reward from any member of the public..."

- (2) Notwithstanding subregulation (1), an employee may accept a gift or reward offered by—
 - (a) a representative...
 - (c) other employees on a social or celebratory occasion."

It looks like you are legislating birthday clubs.

When we go on to misconduct on page 6, you realize how more ludicrous this thing becomes. You said:

- "19(1) An employee may be found guilty of misconduct where he—
(e) becomes indebted to the extent that it impairs his efficiency or is likely to bring the Authority into disrepute;"

I thought they had provisions to declare bankruptcy in the country. I did not know that is the work of a Minister of Health now. It goes on, they are saying that you are guilty of misconduct as a professional, administrator, technical person, if for instance, the person:

- “(h) is inefficient, incompetent or persistently unpunctual for reasons which are within his own control.”

I thought you had a performance appraisal system in operation, where before you take action against somebody, you advise accordingly, step one, step two, step three. I do not understand what this is here, Mr. President. Then it goes on to say that you are guilty of misconduct if the person:

- “(m) engages in any gainful occupation during working hours without the requisite consent;”

So, if they give you permission to go and do private practice that is fine. Is this an attempt to stamp out private practice? I do not know; I need clarification on this matter. It goes on:

- "(2) An employee who without reasonable cause, neglects or fails to produce documents relevant to any proceeding under these Regulations, is guilty of misconduct."

May I repeat this? May I repeat this? This is regulation 19(2):

"An employee who without reasonable cause, neglects or fails to produce documents relevant to any proceeding under these Regulations, is guilty of misconduct."

Mr. President, the last time I looked at the Constitution there was section 5(2)(d) which reads:

- "...Parliament may not—
authorize a court, tribunal, commission, board or other authority to compel a person to give evidence unless he is afforded protection against self-incrimination..."

That is the last time I read the Constitution. How can you tell somebody that they have to produce documentation and if they fail to produce it, they are guilty of misconduct? This is in violation of section 5(2)(d) of the Constitution. Attorney General, my advice to you is to withdraw these regulations. You are going to pay if you do not, heftily too, because people are going to take you to court on this matter, if you do not withdraw it.

We go onto "Disciplinary Proceedings" and 20:

- "(1) Where a supervisor or a person acting in that position reasonably believes that an act of misconduct is committed by an employee, he shall report the matter to the Chief Executive Officer.
- (2) The Chief Executive Officer shall take a statement from the supervisor and if he is of the opinion..."

Hear "nah", opinion now, you know.

"a case of misconduct has been made out against the employee, he shall report the matter to the Board."

The boss, Mr. President. Where is the balancing of the scales of justice? Where is the principle of natural justice in this matter? You just only have an opinion and you say, listen "ah going and charge dat fella and I am going to report him." Hon. Jerry Narace, you cannot be associated with this oppressive package of measures here this afternoon.

It goes on, this one is more ludicrous:

- "(3) Where a criminal offence appears to have been committed by an employee, the Board shall ascertain from the Director of Public Prosecutions whether he contemplates criminal proceedings against the employee, before instituting disciplinary proceedings against the employee."

The last time I checked, it is the Commissioner of Police, through his men that lays charges. In this instance, you go to the Commissioner of Police first and then you go to the Director of Public Prosecutions, but in this instance they are going to the Director of Public Prosecutions first. It goes on in (4) to say:

- "(4) Where the Director of Public Prosecutions advises that criminal proceedings are contemplated, the Board shall not act under..."

I thought it is the Commissioner of Police. The drafting here is extremely poor. It goes on in 21, especially (2):

- "(1) Where an allegation of misconduct is made, the Chief Executive Officer shall -
 - (a) ...inform the employee in writing of the allegation;
 - (b) forthwith refer the matter to a neutral employee to investigate the matter...
- (2) The employee referred to in subregulation (1)(b) shall be -
 - (a) senior to the employee against whom the allegation has been made; and
 - (b) employed by the same Authority."

This has too much space for nepotism, favouritism and victimization; that is regulation 21(1). As you go on Mr. President:

- “(c) shall submit to the Board all original statements, explanations, relevant documents and his report of the investigation within forty-five days...”

Should the worker be entitled to a lawyer or should he have a union to represent him? That is not outlined in these regulations.

8.30 p.m.

Imagine this board that is supposed to deal with policy is now engaging in disciplinary action. Hear the power of the board. The board which is a political board appointed by a Cabinet made up of oppressive individuals who do not like workers in this country, the board shall decide whether to lay a charge against the employee with misconduct after considering the report of the investigation.

So the board—a bunch of politicians—can choose workers. They do not like a doctor; they do not like a professional and the board decides that this person is guilty of misconduct. Where is the justice? Where is the fair play? Where is the impartiality? The board should never have that power to lay charges. Maybe, you can give that to the CEO in a revised package, but not the board. The board has to adjudicate on matters of appeal through a review board which is later in the document. So, how can you lay charges and then sit down and review charges? That is himself speaking to himself, and the Attorney General of this country supports this and allows this kind of madness to be laid in this Parliament!

Mr. President, it goes on in 23(1):

“The Board may appoint a disciplinary tribunal to hear and determine any charge of misconduct made against an employee.”

These regulations do not say what are the criteria for the appointment of these people to the disciplinary committee. There are no criteria outlined. Who is to elect these people? Who is to appoint these people? No member of the board—and under 23(2)(b), there is “or members of the Board.” So, the members of the board can sit on the tribunal too. So, it is himself administering unto himself. This is a kangaroo arrangement that you have here. There will be no justice for workers.

I want to tell you, Mr. President, one of the fundamental rights and freedoms of the citizens of this country under 5(2)(e), no Parliament may make laws to:

“deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations.”

This is a fundamental right that is enshrined in our Constitution; that a person is entitled to a fair hearing and a person is entitled to fundamental justice. You have in your regulations that a disciplinary tribunal could also be made up of members of the board. How can members of the board sit in judgment of these workers? That is himself administering and dealing with himself, so, this is a no, no. That must go! Regulation 23(1) must be deleted completely.

Then 24(1):

“An employee who is charged with misconduct shall be requested to admit or deny the charge and give an explanation or factors in mitigation to the disciplinary tribunal or the Board, in writing, within a specified period.”

How does the board come into this thing? This should be done before the CEO, not the board.

Regulation 25:

“There shall be a hearing before the disciplinary tribunal...”

And it goes on to tell you in 25 and 26:

“(a) the employee”—who—“fails to answer to the charge or give an explanation under regulation 24; or

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(b) the explanation given places facts in issue or does not exculpate him.”

Too much imbalances in favour of the employer. Too much!

“An employee who is charged with misconduct shall be...”

advised of his rights under 5(2)(d) of the Constitution. These are things that we are saying should be incorporated in the legislation. You go to 27(1):

“The Board may direct an employee, in writing, to not report for duty until further notice, where the Board is of the opinion that it is necessary to protect the interest of the public...”

I thought when I last read the Constitution, a person is presumed innocent until he is proven guilty. [*Interruption*] So, “yuh ain’t” charge the individual, but hear the draconian measure that this Minister of Health and his dictatorial regime is seeking to impose on the citizens of this country. I want to warn this Government, you know, the day of reckoning is coming; if you continue to oppress the people they will rise up and they will use any means necessary to get rid of you. You continue to oppress the people. This is an oppressive set of regulations. It is the worst I have seen.

Regulation 27(2), they unilaterally and dictatorially dismiss you, and they say that:

“...an employee shall continue to receive”—what?—“his basic salary...”

No, man!

If you suspend me you cannot give me “no” basic salary. You must give me my full salary. I am innocent until proven guilty! What are you telling me about basic salary? So what about my travelling allowance? What about my cost of living allowance? What about other allowances that I am entitled to? You are going to seize that? You are going to deprive me of that? [*Interruption*]

Mr. President, this is oppression at its worst. We go to 28(1) of the regulations. Their thinking—

“Where —

(b) criminal proceedings,

have been or are to be commenced against an employee and where the Board is of the opinion that the public interest requires that the employee should forthwith cease to perform the functions of his office, the Board shall give him written notice of”—such—“prohibition.”

So that the authority is in a mood to do whatever it wishes. It goes on in 28(4) to say:

“An employee shall be entitled to —

- (a) The full remuneration he would have received had he not been prohibited, if he is exonerated from the disciplinary proceedings or criminal proceedings against him;”

Under 28(5):

“An employee who has been prohibited from performing his duty shall not leave the country without permission of the Board and where he leaves the country without the permission he shall be guilty of misconduct.”

Is this not a draconian measure, Mr. President? It goes on in 29 to say that:

“A member of the disciplinary tribunal shall not be entitled to any leave other than sick, maternity, bereavement or paternity leave until a report is made to the Board in accordance with regulation 36.”

So, the question here, again, this tribunal that we are talking about is comprised also of members of the board, and therefore, it is himself talking to himself here.

We go on to regulation 30(4):

“The evidence in support of the charge shall be presented by an employee of the same Authority as the employee charged and who holds an office in a grade higher than that of the employee charged.”

The question that must be asked here, who selects that employee? Who is going to select this particular employee? Who is this person? Is it any employee? Is it going to be a neutral employee? So, there is nothing here to guide the workers. It goes on:

“At the hearing before a disciplinary tribunal, the employee may conduct his defence in person or may be represented by —

- (a) an employee of his choice who is a member of the Authority;
- (b) his staff association;”

What about a union? You may have a union there like how there is the PSA. You leave out the PSA? You say, “staff association”; what about the union? I am just showing you where the Government has hastily put these things together or:

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“an attorney-at-law,

and if the employee is represented, the employee or his representative may cross-examine the witnesses called in support of the case against him.”

Mr. President, I want to amend this to say that:

“if the employee is represented, the employee or his representative ‘shall have the right to give evidence’ against him.”

You must be able to give evidence. We need to alter some of the provisions here and change some of the provisions here.

Regulation 33:

“The standard of proof in disciplinary proceedings shall be the standard required in a court of civil law.”

Is that the probabilities principle here? What does that mean?

It goes on in 34(1):

“The disciplinary tribunal shall adhere to the rules governing the admissibility of evidence.”

but it stopped short. I want to add:

“...and to the rules of natural justice.”

So you need to extend that. It goes on in 34(4):

“Any explanation given under regulation 24(1)”—I have removed ‘shall’, ‘may be’—“admissible at the hearing.”

Let us go to 24(1):

“An employee who is charged with misconduct shall be requested to admit or deny the charge and give an explanation or factors in mitigation to the disciplinary tribunal or the Board, in writing, within a specified period.”

I am saying this is a trap that they are setting for workers. *[Laughter]* You are setting a trap for workers here and I am calling on the Minister to delete the word “shall” and replace it with the word “may”.

Sen. Dr. Charles: Which section is that?

Sen. W. Mark: I am dealing with section 34(4). Under 39(1) it says:

“An employee who is found guilty of a charge of misconduct shall be liable to any of the following penalties:”

and they go on to tell you the range of penalties here—the persons who are administering the penalties can administer it in a discriminatory way. It could promote victimization and discrimination. There should be a specific penalty for a specific charge and offence. When you leave it this is broad, friends and families can get away scot-free and persons who—you do not like, you can dismiss them. It leaves room for too much nepotism, discrimination and unfairness.

Regulation 39(2):

“Any fine imposed on an employee under subregulation (1)(g) shall be deducted from his salary in the manner specified by the Board.”

Mr. President, I am entitled under the Constitution, section 4:

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

8.45 p.m.

My wages and salary constitute my property. If you are going to tamper with my wages and salary, then you have to be very careful, it requires due process and that is a violation of my constitutional right. I want to tell the Government that it is treading on dangerous ground.

Regulation 40(2):

"Notwithstanding subregulation (1), an employee may be punished in respect of another charge arising out of his misconduct where the charge is not substantially the same as that in respect of which he has been acquitted."

This is dangerous. Mr. President, you are charged, and they are saying while you are charged, they can come up with another charge. Read this carefully:

"...an employee may be punished in respect of another charge arising out of his misconduct where the charge is not substantially the same..."

So this is double jeopardy. They call this double jeopardy. This is dangerous and it should be deleted.

Regulation 41:

"The Board may dismiss or otherwise punish an employee, without the institution of any disciplinary proceedings, in respect of an act of misconduct of which he has been convicted..."

What I am arguing, Mr. President, if you go to Reviews:

"43(1) An employee may apply for a review of any decision of the Board and the disciplinary tribunal made against him."

The review board that is supposed to listen to my appeal, is being appointed by the very board that just dismissed me. So, it is himself to himself. This is a travesty of justice and it is a joke. Therefore, this review board is a waste of time.

"45(1) The Minister shall appoint a Review Board to review the findings of the Board or disciplinary tribunal."

The Minister who just appointed the board is involved in everything. You are not supposed to be involved in these matters. I would like to suggest that:

The review board shall comprise persons numbering not less than three and/or more than five, including persons who are trained in the following disciplines:

- law; and
- industrial relations, among others.

And the review board shall not have any employee or members of the board on it, as is being proposed here.

Hon. Senator: [*Inaudible*]

Sen. W. Mark: Yes, read it carefully. Read regulation 45(2). I want to propose that regulation 50 be deleted completely.

The last point I would like to make in closing is that the employees have no access to the proceedings of the review board, and there is no timeline for the Minister to submit his final approval.

Under regulation 52:

"(3) The Minister shall inform both the Board and his employee of his decision as soon as practical.

(4) The decision of the Minister shall be final."

Mr. President, I believe that the Government is on the wrong track. The Government is on the wrong road with these regulations. They are oppressive; they are antidemocratic; they are dangerous; and they do not conduce to proper and healthy industrial relations practices. Further, it violates our fundamental rights and freedoms, as citizens working in the health care service.

So I call on the hon. Minister of Health to review, to revise and to withdraw these regulations until he is able to have proper consultations with all the relevant stakeholders. And I am sure after those consultations, he would be able to come up with a responsible document that is acceptable and that is consistent with our Constitution and the rights and freedoms enshrined thereto.

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

Sen. Dr. Adesh Nanan: Mr. President, I beg to second the Motion and reserve my right to speak.

Question proposed.

The Minister of Health (Sen. The Hon. Jerry Narace): Thank you, Mr. President. I rise to respond to the Motion moved by Sen. Mark, that the Senate should annul the Regional Health Authorities (Conduct) Regulations, 2008, and I wish to say from the onset, the Government does not support this Motion. We in the Government are of the view that the only way to safeguard our health care professionals, is by issuing regulations that benefit every employee and every citizen.

Mr. President, listening to the distinguished Senator speak tonight, you would never believe that in 1996, it was that government, where that Senator was sitting on this side, that brought those very regulations, and worse, had them passed here. You would never believe that.

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

I would come back to that.

Hon. Members, the World Health Report of 2006 entitled, "Working together for Health", launched the Health Workforce Decade, 2006—2015 with high priority given for countries to develop effective workforce strategies, including healthy workplaces for health workers. Towards this end, the Ministry of Health has been constantly reorganizing its operational plan to engage in transformational strategies, so as to build a First World health care environment. This transformation is based on several pillars, but today, I wish to briefly focus on two pillars namely, infrastructure and health workforce development.

In terms of infrastructure, the ministry has been upgrading health care facilities and will continue to build and upgrade other health care facilities, so that we can effectively and satisfactorily cater to the needs of our society. A few examples of upgrades are:

- the new wing at the San Fernando General Hospital, that includes the medical and surgical wards and the in/outpatients clinics;

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- the new CAT lab for heart patients;
- the new adult surgical ward and ultrasound unit at the Eric Williams Medical Sciences Complex; and
- the new health centres in Petit Valley, Guayaguayare and Oxford Street Enhanced Centre and Brothers Road.

We plan to build six new hospitals. Scarborough has recommenced. We are working towards the balance. We hope to start Point Fortin or award that contract before the end of the year, plus several other facilities. Our kidney dialysis centre, our oncology centre and so on, we hope to get those things going.

Another key pillar is our health workforce development plan. The Ministry has implemented a human resource development plan to recruit, train and equip the new and existing health care professionals with the required tools and skills to effectively and efficiently deliver a high standard of health care in all health institutions.

Additionally, some examples and briefly, we have awarded scholarships to 124 students pursuing a five-year degree in medicine at the St. George's University in Grenada and facilitated approximately 1,510 students presently enrolled in the nursing training programmes throughout the country. We are going to continuously revisit this HR plan as we conduct needs analyses which will inform a bigger manpower plan that treats with current and projected human resource requirements.

In other words, the Government is not doing its business by guess. We know what we want to do; we know what we are doing in infrastructure; and we know what we are doing in HR. I can tell you about IT and all those, but that is not for today. We will talk about that on the 12th. In addition, our Government has fulfilled the requirement of transferring most of our health care professionals to the RHAs under the Health Sector Reform Programme.

We are here to discuss a Motion for RHA Regulations, one that Sen. Mark would try to make this nation believe is something that we just came up with all of a sudden because we want to be dictators. He will never tell this country that in 1996, he passed more stringent measures than this, which in fact was the Public Service Regulations, converted into—but I am going to come back to that.

Sen. Mark: I never did [*Inaudible*] Regulations.

Sen. The Hon. J. Narace: No, I said converted, 1996. International practices have stated that most of the organizational rigidities and bureaucratic organizational cultures prevent health institutions from effectively responding to new reforms in recruitment patterns, new skill sets, and being more adaptive to changes in the working environment. Without the legal framework to reflect these changes in the working environment, most of the policies as discussed above would have produced limited results. In other words, we must have the legal framework in order to produce the results we seek to produce.

The protection, well-being and sustainability of the health care professional, and more particularly the RHA employees, must be of paramount importance to effect change. Mr. Vice-President, all evening he is speaking about doctors, not talking about employees; not talking about the nurses; not talking about the small man; not talking about the little people, he is talking about the consultants. Towards this end, the Ministry has developed regulations that would create a working environment that is free from victimization and bias and also to have a structured environment in which there are certainty, transparency and accountability.

Clearly, it is evident that this administration cares about its workforce, and is making a key difference in getting the working environment right in a modernized health sector. [*Desk thumping*]

I wish to remind this honourable Senate, that the health sector is not only labour intensive, but it also depends on a precise application of the knowledge and skills of its workforce in an evolving environment, so as to ensure patient well-being and health. It is also an essential element of health care provision that patient confidentiality is not only maintained, but protected.

We have to be assured that if Sen. Mark went to one of our health institutions, and God forbid, he was tested positive for something that we would not like—

Sen. Mark: As long as it is not dengue.

Sen. The Hon. J. Narace:—we want to give him an assurance that we would have taken the necessary steps so that his arrangement will be confidential. Confidentiality.

Mr. Vice-President, confidentiality is not only maintained, but protected. It is unacceptable for any patient, whether in the private health care or public health care to harbour a fear that his personal health records are at risk of being exposed by any employee of the health care institution. Can you imagine small people, poor people; people who cannot afford to go by these high priced places, come to

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the public health institutions and they do not know if tomorrow an employee “doh” like the PNM, get vexed and go and say, “I am going to put your records in the streets.” Can you imagine that that individual—or they “doh” like the UNC for that matter, or somebody has some kind of interest in embarrassing their neighbour—can just freely take your personal record and put it in the media and somebody sensationalize it? Can you imagine that fear? That is a fear that I would have thought Sen. Mark would have been concerned about those small people. Let me assure you that this Government is concerned about every citizen’s rights. [*Desk thumping*]

Let me tell you that according to the World Health Organization in the European region, most of the RHAs or agencies for developed countries such as Britain, Germany, Ireland, Norway, Denmark, Finland and Switzerland have developed regulations to govern the values and principles of its human resources in health care delivery.

9.00 p.m.

This does not just obtain in the medical field; at the University of the West Indies they have rules and regulations, in private companies they have rules and regulations.

Do you know what is amazing? They are the same persons who would come here and say, “But de Government not doing anything to get output; the Government not doing anything to get regulations.” [*Crosstalk*]

Sen. Mark: Would there be consultation?

Sen. The Hon. J. Narace: I am going to come to that, Sir. I am going to shock you when I talk about that. [*Crosstalk*]

In addition, regulations exist in the United States, Australia, New Zealand and several provinces in Canada. Patient confidentiality and those kinds of things are not for Trinidad and Tobago alone; they are for all over the world. There are regulations and there is a process. Do you know what is amazing? I was going to come to that, but I cannot help but make the point now. Sen. Mark is not concerned that, as we speak, those employees have no protection. If they committed some kind of act that needed to be prosecuted, if they have to get justice, there is no established process, so they have no protection. The board could do them anything it wants to right now.

We made a promise to those employees. This is a government that keeps its promises. We said to those employees, “If you move over to the RHAs, we are

going to give you the protection you deserve." When Sen. Mark finds out that the PSA signed off on these regulations—I know he is going to check. I am saying it in the Parliament: The PSA signed off on these regulations.

I will come to consultation, Mr. Vice-President. I have been in constant contact with the President of the Medical Practitioners Association of Trinidad and Tobago (MPATT). There are some things that he does not agree with and there are some things that he has a concern with, but the fact of the matter is that this Government recognized that when we transfer the employees— In fact, let me make this point one time—okay, I will not make it now, I will come back to it.

According to an article published in United Kingdom about temporary employer/employee practices in the NHS, the absence of rights has led to a number of employment tribunal cases as RHA workers sought to establish claims of unfair dismissal when their contracts for services terminated after one year's placement.

I have letters from Ashmead Ali and company, for example; these are all letters from persons writing to the Minister about unfair dismissal. This one was written to Christopher Thomas by Dr. Jehan Ali, it is against K. Rampersad Singh. These persons complained of unfair treatment. I have several letters here. I have one written by Karen Chin-Aleong Brooks; all these are from persons complaining that they were not fairly treated, that they felt aggrieved and they had no process. [Interruption] After all these regulations, you have the right to go to court and get further remedies for whatever action. This is in addition to that; let me just make that point one time.

The European Council of Ministers supported the proposals at the implementation in UK law of the temporary employer/employee practices, similar in thinking to the current regulations carded to be implemented in 2010. Do you realize that we are ahead in that regard? We are a forward thinking Government.

In addition, according to a case study from Chile entitled, "Health Sector Reform and the Regulation and Management of Health Care Professionals", while most of the structural, cost containment and community involvement strategies have been implemented, the challenge of most reforms is the legal, political and cultural factors that impede and eventually play a fundamental role in the viability and effectiveness of the reform programme. Furthermore, any attempt to change the human resource policy and practice has to take account of the need to assess the impact and constraints of current legislation and regulations.

Clearly, the absence of any professional misconduct mechanism and an effective performance appraisal system in our RHA system, other than the recourse

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to judicial process, which precludes poorer sections of the society from taking up cases, can be identified as major constraints on the effective management of doctors and nurses. Mr. Vice-President, this is unacceptable.

You could see why the PSA signed off on this; they realized that if a poor, small worker was aggrieved, that poor, small worker could not file for judicial review, and also find money for that. I would imagine that Sen. Mark would have been anxious to put in a system to protect that small, poor worker.

Sen. Mark: Not an oppressive one.

Sen. The Hon. J. Narace: Do not talk about cronyism. I understand your objection to 14(2).

Sen. Mark: Injustice.

Sen. The Hon. J. Narace: Additionally, it has traditionally been accepted that professional misconduct may currently fall within the area of professional self-regulation, but the fact remains that there is no single entity or body which has the power to serve as the foundation for establishing the professional conduct approach linked to agreed standards.

Mr. Vice-President, the introduction of RHA regulations would free up the bureaucratic system and encourage greater employment flexibility. Furthermore, according to a World Bank publication in New Delhi last week, while the private sector in India dominated the profession of health care, inadequate legislation and failure to enforce regulations was contributing to poor medical and work practices in the delivery of health care. Did you hear that, Mr. Vice-President? In India they concluded that because of inadequate legislation and failure to enforce regulations, the private sector reigned free, so that the public sector was not able to serve the poor people of India.

I am sure if Sen. Mark thought through what he said, he would realize that he should have an obligation to the poor people and, indeed, all employees. I know if he thought it over, he would come to that realization.

A major contributory factor to the non-implementation of the regulations has been the powerful medical lobbies who have opposed the Government's efforts to regulate the health sector. That is in India. Hon. Members on the opposite side, I appeal to you, let us look after the welfare of health workers in the RHA; it is an obligation we must fulfil and by so doing we are in turn serving the public and improving the health care system.

It was the UNC government in or about 1999 that established a multidisciplinary committee. One of the key recommendations was the need to have regulations addressing the areas of discipline and conduct, with respect to employees of the authority. It was the same government Sen. Mark is in; the same one that did the thing in 1996.

I told Sen. Mark today in the corridor that it was not necessary to mash up the Government; mash up the place; destroy our image or destroy our international image to win an election. If the people believed, at some point, that you were worthy of winning, the people would vote for you, but you do not have to destroy everything. You do not have to oppose everything. There are some things we could collaborate on and say, "Let us take the people's interest first; as a government, let us look at what we can agree on and move forward." And misrepresentation, distinguished Senator, we have to make sure that we do not engage in that. [*Desk thumping*]

Sen. Mark: "Hear who talking about misrepresentation." He went to the studio and bully people, threatening people to pull ads.

Sen. The Hon. J. Narace: The committee was of the view that it needed to formally regulate within a legal framework. Moreover, it was felt that such regulations should reflect the same degree of comfort that health professionals enjoyed while under the rubric of the public service, and that this would add comfort to the existing staff of the RHAs, as security of tenure was always of concern to employees in general. [*Interruption*]

Sen. Mark: Like a bull in a China shop. [*Crosstalk*]

Sen. The Hon. J. Narace: Mr. Vice-President, it was felt that the regulations should reflect the same degree of comfort that health professionals enjoyed while under the rubric of the public service. That was a promise made to the employees, "You are in the public service; you enjoy a certain level of comfort; there are certain rules and regulations; there are certain laid out processes; there are certain things that protect you; therefore, since we are asking you to go into a private company, we must now give you the same level of comfort."

I can understand why the President of the PSA would say, "Let us do it", because, clearly, the President of the PSA has the employees' interest at heart. [*Desk thumping*]

Consequently, regulations were prepared using the Public Service Regulations as the model; they were drafted in consultation with the RHAs and the Public

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Services Association over a period of time. The final regulations were approved by the PSA and the boards of the RHA. [*Interruption*]

Sen. Mark: What about MPATT?

Sen. The Hon. J. Narace: I am coming to you; I know where your interest is. Your interest has come out very clear this evening. Your interest this evening did not reflect equity; it did not reflect all the people of Trinidad and Tobago. I am one of the most concerned persons about doctors in Trinidad and Tobago. I care about doctors and MPATT. [*Interruption*] [*Desk thumping*] I also care about the employees and the citizens. I told you that you should spend some time in the PNM; you would learn what it is to care about everyone. [*Desk thumping*]

Sen. Mark: What about the Nursing Council?

Sen. The Hon. J. Narace: I asked them to prepare a small document for me so that we could compare the Civil Service Regulations and the RHA regulations. For example, regulation No. 7 of the RHA, Discipline and Conduct, prohibits an employee from making public or from communicating to the press, documents, papers, and all of that. This is the RHA Regulations; No. 8 prohibits an employee from allowing himself to be interviewed and so forth, unless he gets approval. Regulation No. 9 of the RHA prohibits an employee from responding to questions of public policy in a manner that could be reasonably construed as criticism, and so on.

These are the Public Service Regulations; these are the same regulations that in 1996 he supported. These regulations are in keeping with the Civil Service Regulations, Chap. 23:01. For example, regulation No. 138 of the civil service regulations says that an officer shall not make any unauthorized disclosure, make copies unrelated to the performance of his duties, of official documents. The same sort of thing; unauthorized disclosure does not include reporting by an officer of complaints to the Chief Personnel Officer (CPO), Auditor General or Public Service Commission with regard to the conduct of the public service, and so forth.

These are the Civil Service Regulations; I am just showing you the similarity. In fact, I am going to make that point now. [*Interruption*] I am going to quote. I did not want to do it too early, but you forced my hand. I am going to quote Mr. Kenneth Lalla, the former Chairman of the Public Service Commission. While he objected to the Minister's final veto power—[*Interruption*]

Sen. Mark: Are you deleting that?

Sen. The Hon. J. Narace: Hold on; I will talk about that.

"Lalla noted that other than this, the Regulations are more or less identical to the Public Service Commission Regulations."

In the RHAs you do not have a public service commission; they are now a private RHA. They are no longer in the Public Service Commission; therefore, they are no longer in the public service. *[Interruption]* Mr. Lalla said that there was no difference. All that talk about, "We trying to do this and that", the only difference here is poor people would not have to worry about their records going in the newspapers. *[Interruption]*

Mr. Vice-President: Sen. Mark, you are making a running commentary. Please, allow the Minister.

Sen. Mark: I have to remind him that they are political boards put there by the PNM.

Sen. The Hon. J. Narace: Mr. Vice-President, in order to come back to this point, let me tell him how a board is selected. On the RHA boards there must be no less than seven and no more than nine members.

Sen. Mark: Who appoints them?

Sen. The Hon. J. Narace: The Chief Executive Officer is *ex officio*; one member must represent public interest and welfare; one member represents local government; one member must be a medical practitioner—the same doctors he was talking about; one member must be a registered nurse; one member must be an employee of the Ministry of Health, and other members include: finance, accounts, economics, business management, human resource or industrial relations specialists, law and any other appropriate expertise.

9.15 p.m.

Mr. Vice-President, the selection of a board is a very complicated and complex thing and it really represents the widest possible disciplines and interests in Trinidad and Tobago. Therefore, a board when selected in fact represents some wide interests.

I want to return to what the Chairman said, he said there is no difference, so all this alarm we are hearing about this clause says that, and that clause says that, all that alarm is through the window. *[Laughter]*

Mr. Vice-President, the final regulations as I said before, were approved by the PSA and the boards of the Regional Health Authorities and only this week I spoke to the President of MPATT—*[Interruption]* No, I have been talking to him

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all the time, but only this week I had a conversation with him, and consistent with the promise made by our Prime Minister that we will, over time review—not just the regulations that you made, not just the regulations that you passed, not just the regulations that you ordered and now disown all three—it is in the context of modernizing our public service—[*Interruption*]

Let me finish. We are going to review on a continual basis and anything this Government can do that would make people more comfortable, more productive, could make us enjoy happier, healthier, more productive lives, we are prepared to seriously consider.

He has given that assurance, and I am at liberty now to say that. So it is essential to appreciate that the PSA represents the majority of employees of the RHAs and they have been one of the main supporters of these regulations. The PSA has called for its implementation as they have recognized the need for certainty and transparency. They have also indicated that it would be highly unsatisfactory to have no structure set up to deal with the employees on various issues that may arise, or no guidance as to what is acceptable for employees to do. Clearly it is a collaborative process. Everybody would not agree to everything, but it is a collaborative process.

They are supporting the implementation of these regulations and have accepted and advised that it provides much needed structure, protection and certainty to its membership. We promised those members that. The ideas are not novel or new, they are adapted from the Public Service Regulations and the Civil Service Regulations that were introduced by the UNC including you, Sen. Mark. At that time I think you were the Minister of Public Administration and Information. It was your Government in 1996—in fact, I remember it very well.

Mr. Vice-President, you know he will make you believe he will never do such a thing. He ordered it, he passed it, and he did everything. Do you know what you call that? Pelting stones and putting your hands behind your back. [*Laughter*]

Mr. Vice-President, these regulations provide for the general conduct of all levels of employees both professional and otherwise and would create the required staff norms and standards to develop an effective human resources management framework for the delivery of health care.

I will quickly go through all of them. There is no need to detain all of us for any length of time because I think the major point is that these critical points are in the Civil Service Regulations, the Public Service Regulations and the Regional

Health Authorities Regulations and is a promise made. We have the buy-in of the PSA and we have the confirmation of a former Chairman of the Public Service Commission, so that in large measure these things are consistent.

So regulation 3 provides that an employee must conduct himself, be courteous and polite in discharging the duties of his office, all trying to get employees to move towards that First World Health Care Delivery System.

We are trying to put regulations in place so we would have a management tool that would encourage them to get involved in upward mobility, retraining themselves and delivering better service. We are trying to get them engaged as we move towards creating a First-World Health Care System in a First-World country and that is the work we have been doing in that regard.

Regulation 4 provides that:

“4. An employee shall—

(a) not be absent from duty without leave or reasonable excuse;”

Regulation 5(1) provides that:

“5. (1) An employee shall not—

(a) engage in any activity which would in any way tend to impair his usefulness as an employee; or

(b) engage in any occupation or undertaking which is in conflict with the interest of the Authority or is inconsistent with his position as an employee.”

And Sen. Dr. Dick-Forde will tell you at UWI for a lecturer, it is the same thing.

Mr. Vice-President, it is to be noted that an employee who wishes to engage in any of the activities I have described, all they need to do is apply to the CEO and they will get approval to engage in such activity within 60 days of the coming into operation of these regulations.

It is also material to note that the Civil Service Code of Conduct and the Code of Conduct under the Integrity in Public Life Act, Chap. 22:01 were used as guides in formulating these regulations. They did not come from a hat, there was a consultative process, and there was guidance. We looked at the Integrity in Public Life Act, we looked at the Civil Service Code, the same one you passed, Sen. Mark, and this is how we came up with this.

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So I repeat, this is not a new concept or invention and I said before, the UNC government's constitutionality—that one that you passed was constitutional when you passed it, but now the PNM is in office it is no longer constitutional. Constitutionality is determined on the side of the aisle you sit. *[Interruption]* I know my good friend Sen. Dr. Carson Charles would never do that. It was commissioned by his government.

Sen. Mark brought up the issue of constitutionality; it was the UNC government in 1996 that recognized the need to have these regulations. They approved them, they recognized the value, they said all those things and I have to remind Sen. Mark to remember that these regulations are substantially based on the Civil Service Regulations, they were introduced by the Opposition as the UNC government in 1996, and it was based on the previous Public Service Regulations. I would also like to repeat that 10 times and this is not new or novel, there is no reinvention of the wheel and it is only now this issue of constitutionality has been raised.

This, Sen. Mark, is a red herring, it is to be remembered that these regulations are not to govern public servants or civil servants, or public officers, they are to govern the employees of private employers albeit the employer is a statutory body, similar to that of the Unit Trust Corporation. And when you were in office you did not change the Unit Trust Corporation's Regulations. Therefore, when a private employee and his employer are entering into terms and conditions of employment which is effectively what these regulations are, then the issue of constitutionality is different, if it even exists.

Nevertheless, this Government will never attempt to do anything which is a breach of the Constitution, and feel certain that it can defend these regulations. I am assuring you Sen. Mark, that the Attorney General is waiting with bated breath. Come any time you want, I know her capability.

While it is disagreed that there is any breach of the Constitution by these regulations which are similar to what the UNC indoctrinated into law in 1996, I quote the recent decision of the Privy Council in *Suratt & Others v The Attorney General of Trinidad and Tobago* where Baroness Hale stated—I am giving you a precedent authority—

“It cannot be the case that every Act of Parliament which impinges in any way upon the rights protected in sections 4 and 5 of the Constitution is for that reason alone unconstitutional. Legislation frequently affects rights such as freedom of thought and expression and the enjoyment of property. These are

both qualified rights which may be limited, either by general legislation or in the particular case, provided that the limitation pursues a legitimate aim and is proportionate to it. It is for Parliament in the first instance to strike the balance between the individual rights and the general interest.”

Having regard to the genesis of these regulations, I repeat, this issue of constitutionality is nothing but a red herring. *[Interruption]*

Mr. Vice-President, it is just my good advice to the Senator to protect him from himself because if he runs into the Attorney General, I know what the result would be.

Mr. Vice-President, as you are aware, employees come into contact daily with highly sensitive and confidential information, particularly medical notes of patients. A general common law duty is imposed on a doctor to respect the confidences of his patients. The public in general and patients in particular are entitled to expect hospital records to be confidential and it is not for any employee or employer to take it upon himself to breach that confidence whether induced by a journalist or otherwise. This position is reflected by the common law of Trinidad and Tobago. *[Interruption]*

Sen. Mark: You are a bush lawyer.

Sen. The Hon J. Narace: No, we have an excellent Attorney General in this House.

Mr. Vice-President, regulation 8 prohibits employees from calling a public meeting to consider any action of the authority. However, such employees may participate in any meeting called by their union or staff association on matters which the union or staff association is competent to deal with.

These regulations are intended to guide the RHA employees so they will conduct their duties with the highest levels of legal and ethical standards, as such, the regulations set the standards which are expected to be maintained by all employees regardless of their position in the authority.

To this end, the regulations seek to assure that all actions and behaviour of employees are consistent with the highest levels of professionalism to promote an accurate and professional image of the authority, its management and its officers.

Sen. Mark, the People's National Movement Government is moving to put health care in a globally top-rank position and it will start with major pillars, one of which must be our human resource and these regulations are important in delivering those services to small people in particular.

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They also seek to avoid potential conflict of interest and personal gain or any appearance of a conflict or impropriety, and most importantly, the regulations seek to promote the integrity, reputation, administration and operations of all the human resource affairs of the authorities.

Consequently, the regulations prohibit any conduct that could trigger or cause any unjustified embarrassment to the authority. To this end, in order to ensure there is no ambiguity or uncertainty, misconduct is detailed in regulation 19.

Accordingly, an employee may be found guilty of misconduct and we have laid out all of that. I will not bother to read it because it speaks about inefficiency, if you do not feel to come to work, if you are engaged in gainful occupation during working hours. We want to make sure that the employees we pay are in the institutions and if you want to be a part-time student of any school or university, you will get the authority, so that you do not have half of the institution going to school and when you come for service cannot get any and all of that. So it is an agreement that protects the employees as well.

Like all other organizations, the RHA is in consultation with the Ministry of Health and the Public Services Association has established minimum standards of conduct that promote efficiency, productivity and cooperation among employees.

9.30 p.m.

For this reason, it was necessary to identify inappropriate conduct that was not permitted and which may lead to disciplinary action, up to and including termination. To this end, regulation 11 prohibits an employee from receiving payment for the preparation or delivery of a lecture, talk or broadcast which—you did not say this part—was done in pursuance of his duty.

So what we are saying, if you are doing something in pursuance of your duty—you know, sometimes you get all kinds of claims; all kinds of allegations and I want to repeat so that everyone can hear, I have the greatest respect for doctors; I have the greatest respect for their associations because I believe in respecting everybody. The thing is, I am not going to respect one and not respect the other. I believe there must be equity and equality in showing respect.

It does not prevent him or her from giving the talk or broadcast. It must be remembered and appreciated that employees of the RHAs are not public servants and/or civil servants, they are the private employees of the RHAs and accordingly there is a private law contract of employment between the RHAs and their employees.

Regulation 14 prohibits an employee from soliciting the intervention or influence of Members of Parliament, Ministers of Government, members of the Board of the Regional Health Authorities or prominent members of the community to support or advance his individual interest in the authority. Sen. Mark said: "So I cannot go and talk to my MP?" We are not saying you cannot go and speak to your MP. What we said is, we do not want any nepotism; we do not want any cronyism and we certainly will stand for no corruption.

Sen. Mark: You?

Sen. The Hon. J. Narace: Me. Hon. Senators, regulation 15 prohibits an employee from accepting any gift or reward from any member of the public or from any organization for services rendered in the course of his/her official duties except with the permission of the board. You cannot get any gift or reward. You come into the RHA, you have to serve people without them feeling obligated to bring anything for you, be it money, fruit, avocado, whatever it is. *[Laughter]* If you do give an avocado, it must be of your own volition.

Notwithstanding, an employee may accept a gift or reward offered by a representative from a foreign government on the occasion of an official visit to a community organization for the work or achievement of that organization or from other employees on a social or celebratory occasion. In other words, we are trying to bring the RHAs up to a standard. We are trying to put in a proper HR infrastructure; we are trying to put in a management tool that the board would be able to effectively run these institutions and we are trying to remove all inducements and those negative things that people cry every day about on the radio and so on.

I hear them; I see the letters. I have files of letters like these and we are trying to bring that into some proper process. But most of all, we are trying to protect those small employees who may be aggrieved and must seek judicial review. Right now they have no protection; right now they have nothing. The board could do them anything they want right now.

Most importantly, the regulations detail the disciplinary process which the Authorities must follow where a supervisor reasonably believes that an act of misconduct is committed by an employee. This proposed system is better than that which currently exists, where the CEO or board can remove any employee without a structured process or transparent system. The board could move anybody and we cannot do anything. We are seeking to put in place a transparent system that will be subject to the court of law. It is similar to the current system for public servants and is done solely to protect employees.

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Currently, employees of RHAs can be removed without a structured process. It is ridiculous to suggest that the proposed system subjects employees to any whim or any fancy.

It is material to note that without regulations employees can be fired, as I said before, without any formal process to determine their culpability. The only recourse, as I said to these employees, was an application to the Industrial Court, the High Court and to some extent, the Ministry of Labour. This Government is of the view that these regulations are necessary to safeguard the interests and rights of employees and further, they are consistent with good industrial relations practices. These regulations will reduce, if not eliminate, the level of victimization of employees—I want to repeat that; victimization of employees wherever this might still exist at the authorities. We recognize that one must provide systems, rules and regulations to prevent victimization of employees.

Further, in order to ensure that frivolous complaints are weeded out, regulation 20 provides that—

“Where a supervisor or a person acting in that position reasonably believes that an act of misconduct is committed by an employee, he”—she—“shall report the matter to the Chief Executive Officer.”

Moreover, sub-regulation (2) provides that—

“The Chief Executive Officer shall take a statement from the supervisor and if he is of the opinion that a case of misconduct has been made out against the employee...”

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

Motion made, That the hon. Senator’s speaking time be extended by 15 minutes. [*Hon. B. Annisette-George*]

Question put and agreed to.

Sen. The Hon. J. Narace: I wish to thank all Members very much.

So that the CEO shall take a statement and he shall report the matter to the board and, of course, all of this is the process of fair conduct.

Regulation 21 mandates the CEO to inform the employee in writing—he must be informed; it is a complaint made against him—and to forthwith refer the matter to a neutral employee—so you can object if you do not like the employee—to

investigate the matter. This employee must be senior to the employee against whom the allegation has been made and must be an employee of the same authority.

The investigating officer must give the employee notice of his appointment and request of him a written explanation of the allegation made against him. He/she is also mandated to solicit statements from all persons who have direct knowledge of the alleged misconduct. The investigating officer submits his/her report to the board which will decide whether to lay a charge against the employee.

Where the board decides to lay a charge against an employee, the board has an obligation to give him written notice of the charge together with the particulars of the allegation on which the charge is based. You see a clearly laid-out process at work here.

Regulation 23 provides that—

“The Board may appoint a disciplinary tribunal to hear and determine any charge of misconduct made against an employee.”

So the board is appointing a disciplinary tribunal.

“(2) The disciplinary tribunal shall consist of –

- (a) one person; or
- (b) an uneven number of persons, being no more than five, three of whom shall be employees of the Authority or members of the Board.

(3) A person appointed to a disciplinary tribunal shall hold an office in a higher grade than that of the employee charged.”

The employee shall be requested to admit or deny the charge and give an explanation or factors in mitigation to the disciplinary tribunal or the board. In the case where the employee fails to answer the charge or give an explanation or the explanation given places facts in issue or does not exculpate him, regulation 25 provides that there shall be a hearing before a disciplinary tribunal.

This is due process. This is accepted process for dealing with disciplining of an employee. It has safeguards and protection for the employee and is transparent compared to what currently exists.

Regulation 27 provides that—

“The Board may direct an employee, in writing, to not report for duty until further notice...”

And of course, that is established.

Regulation 30(6) provides *inter alia* that at the hearing before the tribunal:

“...the employee may conduct his defence in person or may be represented by –

- (a) an employee of his choice who is a member of the Authority;
- (b) his staff association; or
- (c) an attorney-at-law,...

So, therefore, his union can represent him.

Regulation 36 provides that—

- “(1) Where the disciplinary tribunal finds that the evidence is insufficient to support the charge, the disciplinary tribunal shall report its findings of fact together with the record of the proceedings to the Board without calling on the employee for his defence.
- (2) After the Board receives the report and the record of the proceedings in accordance with subregulation (1), it may within fourteen (14) days refer the matter back to the disciplinary tribunal for further enquiry or with instructions to dismiss the charge.”

Regulation 38 mandates the board to within 14 days of receipt of the tribunal’s report, give the employee notice of the findings, the penalty and his right to apply for a review. Complete process! You are now protected. This gives the employee an impartial opportunity to exercise his/her rights. The Bill that he passed, the Civil Service, 1996—

Sen. Mark: I did not pass any Bill.

Sen. The Hon. J. Narace: Under the current system there are none of these protections. Surely that cannot be what the other side is advocating, that employees be left without protection and be denied the opportunity to have a transparent system of which there is an important element of certainty. The employee knows what he/she may be subject to and that the authority cannot wake up in the morning and remove him/her without going through a process in which he/she will be given every opportunity to defend himself/herself. Employees under these regulations could now go to work with some security of tenure, with certainty, knowing their rights.

An employee who is found guilty of a charge—I think Sen. Mark went through this so I need not go through that. Just to say that this is not arbitrary behaviour.

Regulation 43 provides that an employee may apply for a review of any decision of the board and the disciplinary tribunal made against him. The regulations detail the process he must follow. So with all of that, he now has more rights. He could now ask for a review and the CEO must follow when he is in receipt of such a request.

Regulation 45 provides that:

“The Minister shall appoint a Review Board to review the findings of the Board or disciplinary tribunal.”

So at every stage we are providing more and more rights of protection. The Review Board shall consist of—

- (a) a chairman who is an attorney-at-law with at least five years experience; and
- (b) an even number of persons being not less than two persons and no more than four persons.

At these proceedings before the review board, the employee is entitled to be represented. At every stage and at every level there is protection. I remind this House that this process is similar to what currently applies for public servants.

The Review Board may review the findings of the disciplinary tribunal in the absence of the employee if it appears to be just and proper to do so.

Regulation 52 provides for the consideration of the record of proceedings and the recommendations submitted by the disciplinary tribunal under regulation 51, the Minister may affirm, or annul.

[MR. PRESIDENT *in the Chair*]

You may recall that immediately upon my appointment as Minister of Health, I initiated a 100-day intervention plan. This was formulated after meeting with our stakeholders in the sector who indicated the need to have some short-term intervention, which could yield immediate results. One of the activities identified was the need to have these regulations finalized and laid in this honourable Senate so that they become law.

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Many of the activities of that intervention were geared towards providing a safe environment within which patients, visitors and staff can operate in receiving and delivering health care. This has been augmented by increasing surveillance.

This Government is committed to transparency and accountability as well as keeping its promises. There have been over the years, numerous allegations of persons employed by the RHA being fired without a cause and without the coverage of a defined process. As far as these employees are concerned, there was no due process.

This is not only unfortunate but unacceptable to this Government. There was no regulatory framework and of course no regulations. The formation of this legal framework in the RHAs would indeed complement the existing and future reform of support delivery systems and the linkages that facilitate the application of technical skills. Consequently, we are of the view that these regulations are the only way to safeguard the rights and interests of our workers.

In the circumstances, we on this side cannot support the Motion brought by Sen. Mark and reject it completely.

I thank you. [*Desk thumping*]

Sen. Prof. Ramesh Deosaran: When the Regional Health Authorities were established, it was obvious that there were several loopholes in the framework, primarily with respect to regulations, and since the RHAs were not directly under the public service regulations, the gaps became very bothersome both for the practitioners in the RHA and as well as for the Government and the public, because there were no mechanisms through which an employee could seek proper redress within the organization and neither was there any transparent access for members of the public to achieve any kind of fairness or equity, especially in a matter as delicate and sensitive as health.

9.45 p.m.

It is unfortunate that that gap was left for such a long time with the attendant controversies that have emerged through that unfortunate gap. I see the regulations which were made and to which some objection has been lodged are an attempt to fill that breach, especially since as was clearly admitted today and is well known, that there was no embracing Public Service Commission that would supervise the RHAs.

The question immediately appears: Do we leave the RHAs without any regulatory framework especially with respect to discipline and still not have any

public service commission overseeing them? That breach was filled by the introduction of these regulations especially on the aspect of accountability.

I note with great interest and it is also for the public benefit that nowhere in this document of 19 pages was the word “doctor” used. I found that a remarkable note because the public could get the impression—I am not saying whether or not it is justifiable—that this Bill concerns only doctors. The definition of employee says, “a member of the administrative technical professional and other ancillary and support staff of the authority other than a daily rated worker”. It is everybody in the RHA who has rights to protect; freedom to enjoy and has an obligation to serve the public in, as I said, a very delicate and sensitive mission as health for the general public.

The matter at hand has three major elements, the State, the Government and the responsibility it has to execute; the employees of the RHA and the general public. Throughout the discussion—I believe that we have to be judicious enough to find a proper balance. If that balance has to be tilted it should be tilted in the public interest.

Before I proceed I wish to refer briefly to what the previous Senators said. Sen. Mark could be very convincing and passionate. Being a trade unionist of some repute, I believe that much of what he said, he knows about what he is speaking. This RHA is a different kettle of fish. You do not need the orthodox approach in dealing with a creature which for a long time was neither fish nor fowl, as far as public administration is concerned. You needed a more creative approach without repeating the mistakes of the past, including the gaps and some of the obvious inefficiencies of the Public Service Commission. Some have been admitted openly and some of which the Public Service Commission knows. Sen. Mark was on the point of the regulations violating the Constitution. Like many of us I am very touchy when freedom of speech is violated. That freedom is about the most sacred you can have in any reputable democracy, but then in the judgment that was cited, things have to be contextualized.

I just finished reading a book which is relevant to the discussion. The book started off by trying to determine how to resolve the conflict between expediency and justice; things that are expedient to be done sometimes to save lives or correct a road. Speed is important against the question of due processes that are involved in justice, especially natural justice. My temper was rising after hearing Sen. Mark impress us with the violation of the Constitution, with respect to not only

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freedom of speech but also the other provisions in section 4 as freedom of assembly and so on. Then I heard about 1996 and I paused. I do not know if another Senator on the Opposition Bench will clarify what happened in 1996.

Sen. Mark made a point—it has to be a troublesome point—that through these regulations the doctors would leave the service. I hope that the Minister and his Government walk the extra mile to provide doctors and hospitals with the required conditions of work and the appropriate level of equipment and research and development facilities, so that this would not happen. I will be happy if in your winding up you would give the public, the medical profession and the hospitals this kind of assurance, apart from reference to the review of the regulations. It will show good intentions and it is not a matter of trying to regulate, but facilitate good health delivery.

As I mentioned a few minutes ago, the Minister referred us to 1996 with the UNC bringing forward similar regulations. I am not too clear but I think that that point should be affirmed one way or the other, because it will tilt the direction of the outcome of this debate to some extent.

We cannot deny the fact that we need accountability in all areas of public administration. In so many respects without enumerating them in detail, the services delivered to the population have deteriorated to such an extent that any attempt by the Government to improve services should be welcome. Any attempt to create regulations, rules and procedures, so that members of the public will not have to line up for long hours waiting for a particular service, or if they have to line up and suffer and come out sicker than when they went into hospital, must have access to express their grievance. The process must not be a lingering one. If that is the intention of the Government through these regulations, I welcome the initiative, except to ask: Will these regulations be fairly implemented?

That is the critical junction in the debate as far as I could see. The Government will have to convince us in many ways that the appointment of a chief executive officer, for example, will be done by transparent criteria, competence and not to put somebody who is just a blind fanatic in such important positions, especially when important decisions have to be made in terms of natural justice. For things like that, the assurance should be given to ease any fears that you might have as to whether these regulations will be fairly and competently applied.

The Minister made a fundamental point which might help take some of the suspicion over these regulations. He said that these regulations were not only discussed but also approved by the Public Services Association. If that is the case,

certainly, obviously, it lends a high degree of legitimacy and propriety to the regulations. That is one of the points I was worried about. It is the question of a partnership or discussion with a relevant authority.

Before I proceed and forget, having heard what the Prime Minister said and what the hon. Minister just mentioned, I hope that there will be a review of these regulations, not only in themselves, but also some of us who know about the Public Service Regulations; Teaching Service Regulations, the somewhat archaic nature of some of these provisions. There should be a total review of all these disciplinary procedures including the one before us. The public would be satisfied not by hearing about an imminent review but it would be more convincing if we can have some estimated time line as to when the exercise will begin. It will increase the amount of trust that is required to support the Government's initiative and that will help in this direction.

Mr. Minister, we need rules and regulations but in this country what we need perhaps more than that, is the enforcement of rules and regulations and an appropriate framework to deliver such enforcement. [*Desk thumping*] Otherwise, the same people who complain about inefficiency here and there and object to such regulations, you would find them complaining about inefficiencies here and there. If these regulations can be applied fairly—I will come to some examples in a while—they would go a long way in making our public health care, a better mission.

Let us be frank, there is some fear of political interference. That fear of political interference has grown immensely over the years and puts into dispute, the practice of representative government. Representative government starts with the fact that you elect people to represent you and look after your welfare. The question is: Who else will you expect to make decisions about appointments and your welfare? We have to heal that fear about political interference that surrounds ministers. This is yet another good place for the Minister to start. It is a serious issue. Who else will appoint? The President cannot appoint everything and everybody to every place.

This whole question about who is independent. At some time we have to discuss that more fully, if not in this forum in some national debate, small country as we are. In effect what I am saying with respect to the fear and suspicion, some are real given our history.

We have to get ministers who are trustworthy, not only by promises and rhetoric but also by practice; the evidence in the way they make appointments and the manner in which they execute executive authority. If we continue in this way

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suspecting everything a minister does, eventually, we would be subverting the practice of representative government. The heart of representative government is that you elect someone to serve you and the manner of that service is to make certain appointments, but also to be held accountable, which is the part of the equation that also needs some refurbishment. The same way we expect accountability from the employees of the Regional Health Authorities, it will help the mission and purpose of democracy, if ministers could show that they are willing to be held accountable through Parliament by activating the joint select committees, so these RHAs and the other officials can come before them. That would be service on behalf of the Government.

10.00 p.m.

I can never understand why the Government is reluctant to use these joint select committees in this matter and related matters. We will come to that at some more appropriate time.

Not only are the regulations quite similar—Sen. Mark himself, skilful as he is, tongue in cheek, admitted that they are similar but not identical to the Public Service Regulations. They are also similar to the Teaching Service Regulations in terms of code of conduct and teachers are forbidden from doing many things that we are now forbidding employees of the Regional Health Authorities from doing. It is really a level playing field to begin with and then, hopefully, the review will come to create an improved level playing field. For example, a teacher shall not, under the code of ethics and the laws, Education (Teaching Service) Regulations, directly or indirectly be involved in any financial or other interest or undertaking which could conflict or compromise or reasonably be said to conflict with or jeopardize his job performance or office. A teacher shall not respond to questions of public policy in a manner that may be reasonably construed as opposing the Government policy or which may call into question his ability to implement, administer or advise on Government policy.

Really these regulations are nothing new under the sun. The reserve point however is: Will the regulations be implemented fairly? Sen. Mark's concern is in a sense understandable, whether the board is impartial enough and given the role of the Minister.

Mr. President, again we seem to forget an important point in public administration. What was earlier called our civil service, a civil servant in this system in which we operate is supposed to be an employee who is loyal, dedicated to his

service and politically impartial in the execution of his or her duties. That was the tradition of the civil service we inherited. Of course, we changed the name to public service and it got worse. I suppose that is another point.

There is a reason for the loyalty and for some of the provisions to which I refer, some of which may be archaic, but I hope in the review the fundamental substance of a public servant is kept intact, which is to say for example, that you cannot have a public servant working as a Director or a Technical Director of a unit or a Deputy Permanent Secretary or a Budget Analyst, seeing the documentation before him or her and going publicly and opposing the policy, which by virtue of the terms of his employment he is responsible for implementing.

There is reason, there is justification and there is logic in having some of the provisions that we have. It is not arbitrarily oppressive or draconian; it is merely trying to have a regulation to protect the public interest. What is the public interest? Part of this interest is that the Government, having been fairly and duly elected, is responsible as the Executive to develop public policy and allow the public administration arm to execute that policy. The public administration arm comprises of public servants, so you cannot get the tail wagging the dog and that is to me quite reasonable because there can be chaos and subversion. That is why you have Secrecy Acts in very civilized administrations. It is to protect the public interest by having information not used subversively or maliciously. A public servant, which includes in this case employees of the Regional Health Authorities, must be loyal and dedicated to his or her mission and must respect his or her obligation to execute government policy.

Having said that, I do not think anybody is being gagged or stifled of freedom of expression. If you examine the regulations before us as well as those of the public and teaching services, you have an association through which you can channel your grievance and appeal for reform, working conditions and other such matters and perhaps that is what a civilized way of running a public administration today should be like. In other words, you cannot have vigilantes in the public service, self-serving expression, posturing, bargaining, but collectively they are represented through their association or trade union.

These regulations are really nothing new. The dilemma that the Government faces is, what kind of regulations to make to heal the gap that has existed in the RHAs. Perhaps one can step back and say that the regulations are coming at an untimely occasion—everybody is so worried about democracy and dictatorship and so on and here it comes now. Apart from the timeliness or untimeliness, in substance, I think we are trying to heal a gap except with the reservations I have just expressed.

Freedom of expression is the constitution of theoretical proposition and like all freedoms it must have a proper context in practice. I believe, for example, that we have a lot of professionals, nurses and doctors, who do yeoman public service by speaking on television and radio but, as the regulations prescribe they do so out of their expertise. They help the public understand diabetes, cancer, AIDS and it is good public service. It is not in this instant case that you are trying to stifle freedom of expression; it is just how and when it should be done in the public interest. I can call a few names: Dr. David Bratt, Dr. Jeelal, Shireen Kalloo, Dr. Khan, who educate the public.

This takes me to another aspect of the medical profession. There are a lot of good doctors in the country. I know quite a few of them and I celebrate their professionalism and their long years of dedication. So, it is not a question really of stifling freedom of expression; it is how that expression is used. As I said earlier, it must be used in the public interest.

Mr. President, without going too far out, do you know what is the most serious issue in the United States election? The most serious issue that both sides are trying to capture in the public imagination is the extent to which they can do battle with what they call special interests. Suddenly everybody from both sides of the American election is talking about the small man, meaning that if they do not convince the general electorate that they are capable of dealing and staving off special interests, they may not really win the election. A government properly in a democracy must have as one of its prime objectives, keeping special interests away from damaging the wider public interest. Any government that is courageous enough to do so will not only likely win the votes of the citizens, but their hearts as well.

In fact, any group of professionals, especially those under the RHAs now and especially those who function under an Act of Parliament—doctors, lawyers, engineers, for example—have a duty to the public interest and, given the nature of their professions and the oath that they took, the public interest must often supersede their personal interest.

I have a lot of respect for Sen. Mark, passionate, but everybody goes way off sometimes; we are all not perfect. He made the point that doctors serve the public beyond self and that is quite true. They have to prove it. I listen to some doctors, I cannot say all, especially when industrial relations issues are in the air and wonder if they really are doctors, having taken a certain oath. I ask myself that question without coming to any conclusion. The public is asking that question as well. I

believe that professionals in this country, particularly those within the Regional Health Authorities, must understand their mission and we should be hearing less and less of old ladies waiting outside on benches because there are no beds and no doctors to look after them.

I witnessed a case at the Mount Hope Complex where a relative of mine was taken and had to wait hours and by the time the doctor came, the virus, I was told, had eaten away his heart. He was dead next morning. And there are several such stories. So if the code of conduct and the list of offences you have identified, to which I will refer just now, can be properly regulated and implemented, especially in the health service, you, Mr. Minister, through you, Mr. President, and your Government will be doing this country a noble service that is long outstanding.

There are good examples. Where I live in Champs Fleurs several of the neighbours complained of having an attack of dengue. I am not going to get into whether it is an epidemic or whether it is an outbreak, or whether there are few cases. Leave that, as you say, for Monday night. Other people will handle that. I am here to tell you the things we can do to make this country, not only safer, but a more comfortable place.

The neighbours called me to see what I could do, that is Saturday. I thought about you, but I know you are not very easy to find; you are a very busy Minister. I called Dr. Clive Teeluckdharry—I got his number; he is in charge of the Vector Control Sector in St. Joseph. I explained the enormity of the problem and the fear of the 12 families. They did not really have it, but they had symptoms, so I am not making a medical conclusion. They had fever and so on and they suspected dengue. He promised to do certain things and the next day he did it. They inspected the homes; they found certain larvae and the mosquitoes' presence and he promised to spray the area.

10.15 p.m.

Goods things can happen. That kind of responsiveness is admirable. The people there felt comforted. In fact, I wish the police could respond as expeditiously as these vector control people. Good things are happening. Good things can happen in this country.

Sen. Dr. Charles is correct; if the Government steps back and takes serious note of how the public is feeling and puts certain measures in place, under proper supervision, things can work. I have never seen, in the last few weeks, so many regional corporations putting up signs about cleaning people's places: "If yuh doh cut down yuh bush, we would fine yuh according to de regulations." Clean up the streets.

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There is something good happening, I believe, in the local government arena, with the regional corporations. I do not know if it is a coincidence that there is a new Minister, or if these regional corporations already had all those things in train. If this continues, I would also like to see all the streets in the country with street signs. That is one of my pet grievances.

Let me come back to the Bill. I was giving an example of how things can improve. I want to congratulate Madam Minister for, perhaps, encouraging this improvement as far as she possibly could. I want to make the point that good things can happen if the Government and its agents get very serious about implementation.

If you make the regulations here for the Regional Health Authorities, let us say, more lenient, more sparse and different from similar works in the public service, you create an unfortunate dilemma; an anomaly. I believe the Government really had to go with what already existed; otherwise you would create another problem. I was happy to hear the PAC give its report on this.

What I find though is that these professions, in the instant case, the medical profession, are not using their expertise and collective strength in medicine as much as they could. For example, they should have an expert panel, through the medical association, set up to collect data quickly from all doctors and let the public know what is really the state of dengue, apart from what the Minister and his Ministry would say, or the medical association should help educate the public in partnership with the Government, because doctors and their families also get sick.

Why do I say this? I say this because such activities will enhance the reputation and the public goodwill towards doctors. I think the medical profession needs some of this, just as lawyers also need a larger amount of public goodwill. All these professions should now rethink their role and help civilize this country and make it safer. You can quarrel, attack and blame, but you must also do your share of professional or civic duty.

There are three aspects of the Bill to which I want to refer. I would want the chief executive officer—and the public must be assured, given the duties outlined in the Act—to be a person of integrity and politically impartial. That is a very important requirement, given the nature of the regulations.

Secondly, Sen. Mark did speak about due process. I looked at the different levels of due process and I can tell you from section 20 right on, the regulations are pregnant with due processes. It is filled with due process every step of the way. Putting aside this fear of political interference, if you look at it as a

procedure, you have the supervisor first getting involved and the CEO gets a report from the supervisor. It goes to the board and then a disciplinary tribunal. It goes for review, to the board again for ratification, the Minister sets up a review board and finally examines that. There are several steps, except that we must give the assurance that there will be no undue political interference. I think that could be done.

The third point is the role of the Minister. That has me worried, for obvious reasons. Perhaps, one would think: Well could the chief executive officer do it? Then we would say: No. This is not only a matter for doctors; this is a matter for all employees. Could the permanent secretary, rather than the Minister, have that role as final arbitrator? I do not know if a permanent secretary could undertake that level of executive function. These are puzzles. There are no easy solutions in this new intervention. It is not that you have ignored something better and put something worse. If you did not have the Public Service Commission at your disposal, which you do not have, the question that I have to ask myself and until I hear a better answer is—I do not think you have much alternative but to carry this responsibility and convince the public that you are impartial and you would do the job on its merit.

If I could briefly refer, before I end, to some of the regulations. First of all, I think the list is what impresses me; the list under section 19 of the Code of Conduct. Why I am impressed with this, the detail, is because we see a violation of these things all over the place.

I have been to certain sections of the public service, even hospitals, and people just do not care. They sit there and watch you with no attempt to help you. A hospital or clinic is not like a parlour or rum shop. You go there because you are bleeding, grieving or hurt and therefore the professionals there must understand the nature of that responsibility which, in my view and the view of thousands of citizens, is that the mission is not properly carried out. If you have a very horrible situation, you need a very decisive approach to it. That is the danger of allowing things to deteriorate over time more and more, without it being addressed properly, like crime. It has been allowed to go down until you have a lawless culture, which includes attitudes, dispositions, you do not care and nobody would hold you. That feeds into crime.

We have left the issue of misconduct in the health services unattended for too long a time. If you want to deal with people who wilfully refused or omitted to perform their duties, you are right, but the proof is the other issue. That is what I

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am talking about, the implementation scenario. If they perform their duties negligently—I would not go further and identify people or hospital staff. I would not go so far, but we know enough for us to know what I am speaking about.

“(c) fails to discharge any other related duty which the Chief Executive Officer or other duly authorized officer may call upon him to perform;”

That brings us to the rampant disobedience in public administration. The question of disobedience is now a claim to fame. I am not saying to be subservient. Carry out your duty when you are properly supervised. The same thing is happening in schools. Everybody is a rebel in his or her own cause. We really have to clean up the society, starting with our perverse behaviour in our taxpaying-supported institutions.

When you are absent from duty without leave or reasonable excuse, that is a serious offence. You have a ward to look after, six weak persons are supposed to be there and one morning you see two. People are sick. They want bedpans and injections. These are very serious issues, in my view. I hope that these things are properly implemented, Mr. Minister, through you, Mr. President. You have one here about them becoming indebted. I do not know if that applies to doctors. I cannot imagine a doctor being indebted. If the person employed is inefficient, incompetent or not just punctual, unpunctual could be a simple administrative matter. Persistently unpunctual calls for a higher level of disciplinary action.

This thing about staff reporting, talking and counselling, “yuh see all that petting up and pampering?,” in my view, we have too much of that in this country and they believe that they can get away with it because: “I would be reformed and rehabilitated. Dey will counsel meh and gih meh warnings six times. If dat is not enough yuh would tell meh 10 times.” That must stop! The Government, as I said before, must set an example and show the national population that it means business. I hope when you have all these things and you are wrestling with them, you try to get a balance, be faithful to what you have done today and execute this responsibility seriously.

If you are unfit for duty through drunkenness or the use of illicit drugs—I know of situations like this one, by certain employees in the health service.

“(m) engages in any gainful occupation without the requisite consent;”

I think that these are necessary provisions.

There are one or two things I want to draw to the attention of the Minister and more precisely to our distinguished Attorney General, in terms of the review, in

23(2)(b) on page 9. Why must we have a member of the board in the disciplinary tribunal, when it was the board that invoked the process in the first place? I do not know if there is a reason, but that kind of redundancy, there is a bigger word for it, or duplicity is not a welcomed one, except there is a possibly good reason.

There are one or two other things in section 28(5). Why are we prohibiting the employee from leaving the country if he or she is just under a charge? Of course it would depend on what kind of charge it is.

There are other little things. The standard of proof, I believe, would be the balance of probabilities.

I am coming to the last. This is the one I wrestled with the most. That is about the Minister having the final say. As I have said, I do not know what is the alternative in the present circumstances, except to say again that the Minister must demonstrate that he is fair and he would work these regulations, or any other Minister of Government for that matter, in the fairest possible way.

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

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

Question put and agreed to.

Sen. Prof. R. Deosaran: I was coming to the end. With respect to the medical profession, the employees in these medical institution, must play their part too and do not wait until the regulations are enforced.

10.30 p.m.

There is a case we had in Parliament where we had to bring one of the medical practitioners before our Privileges Committee. He had to be warned for behaving in a vulgar way and threatening a Member of Parliament, and the medical association said nothing; not even a hint to let the public know that they do not condone such behaviour. Such instances like this, these professions have a responsibility to regulate themselves as far as possible. In fact, these regulations should not be necessary at all to enforce them if you have proper professionals in these institutions.

I see this as a ray of hope. There are some reservations and, perhaps, when the Minister is winding up it is going to help some of us to determine where we will go, but I think we need accountability and we also need fairness. I think the

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Minister has taken the correct step and he has moved in the right direction, and we look forward to him keeping the promise of a quick review, and it will also help the public to have fuller confidence in the operation of our health institutions.

Thank you. [*Desk thumping*]

Sen. Dr. Jennifer Kernahan: Mr. President, thank you. I rise in support of the Motion before us as raised by Sen. Mark. I believe that certain provisions in the Regional Health Authorities Regulations are inimical to the development of the health care sector. At the end of the day, the persons who are going to suffer are ordinary poor people who depend on the RHA institutions for health care in this country. We cannot have a situation where health care workers feel aggrieved, demotivated and put upon and expect that the health care that they give to the public would be of the highest and best quality.

Earlier on, in another debate, Sen. Dr. Carson Charles asked the question why we should have a situation where there are no beds in the San Fernando General Hospital, and where there is chaos and people wait for days for attention and so on. The Minister of Health got up and said that there is not just a question of beds. He made the point that it is not a question of just going by Courts and buying beds and putting them in the hospital. He said that issue is service and there is need for maybe more professionals, there are not enough health care workers and there are not enough of the human elements involved and it is not just a question of the beds per se.

Having said that, we have a situation where these regulations would probably exacerbate that situation. So, in addition to not having beds, you are going to have health care professionals who feel very aggrieved and would not give the best service to the population who need their services so badly in these institutions.

There must be some sort of sensitivity when we are dealing with health care professionals as a specialized sector of the public service. They provide a service, not just in terms of giving you documents like passports or birth certificates and so forth; their service is a question of life and death. It is a question of whether babies die or live; whether old people die or live in these institutions. They must be regarded as a very specialized sector of the public service.

In fact, the whole thrust of the Government, at this time, is to move health care professionals from the ambit of the public service and bring them under the RHAs. You must have a shift in the way that you look at these professionals because you are taking them from the public service. They are no longer

considered members of the public service. You are bringing them under the ambit of the RHAs, and you have to recognize that they are different and that their needs and conditions under which they work must be different, because they are dealing with life and death and the health of the population.

In these regulations, the problem is that we are not seeing the sensitivity to this issue. We are not seeing that the Minister understands that you cannot railroad and bulldoze this section of the health care sector into submission, because it would have repercussions. It would not have repercussions for people like the Minister or people in the middle and upper income brackets who are able to fly off to Miami and England and so forth for health care, but it is going to have repercussions for ordinary people who have to stay here and wait for days for attention in the hospitals.

If we are bringing these health care professionals out of the public service and organizing them as members of the RHAs, these regulations must reflect that. There is no point in coming here and saying that they brought regulations to govern the public service in 1996 and so on and they are similar to the regulations we have now. It does not follow. As I said before, it is a totally different situation when you are dealing with health care workers.

The regulations that were brought in 1996 dealt with the code of conduct of the public service—they are similar but not totally identical. The points in which they differ are important for the good administration of the public health care in this country.

The Minister spoke to the whole question of globalized health care—the PNM is committed to delivering global health care and to delivering the highest quality of health care—but you cannot do that with the public service regulations. You have to be sensitive that you are dealing with a group of persons who have life and death in their hands and you have to be sensitive about that.

The Minister made a big example of the fact that he brought these regulations because he wants to be sure that if you go to a public health institution and you are diagnosed with any particular disease and so forth, you would be sure of the confidentiality of your health information, but that is basic to all regulations in the public service. That is not something that is special to this regulation. This issue of confidentiality is basic and fundamental to the public service.

In fact, I looked at the Public Service Regulations in Canada and it indicated—I believe one of the Senators said it here this afternoon—that the public servant owes a duty and loyalty to the employer and a right to freedom of

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expression and that is important. Loyalty to the employer would encompass the confidentiality—the need to go out there and just divulge information that might come across in the course of your duties and so on without any permission and so forth. The Canadian legislation also emphasizes the right to freedom of expression. That is entrenched in their regulations. They said that there is need for a balance between these two principles and that the government needs to establish a charter of values for the public service and code of ethics and so forth. That confidentiality is fundamental and public servants should not disclose information that is officially recognized as confidential. So, that is basic.

It is not as if the UNC is not committed to a code of ethics, values and so on. We brought that code of ethics into the Public Service Regulations, but what we are saying is that you must be sensitive to the regulations for health care workers, because it is not just a passport or a piece of paper, but it is lives that you are talking about. You must also be sensitive to communication and dialogue with the bargaining unit and the representatives of the health care workers.

The Minister made a big to do about the fact that the PSA signed off on these regulations. The fact is that you are moving health care workers from under the ambit of the PSA and you are bringing them under the ambit of the Regional Health Authorities, and a great deal of doctors and health care professionals who are under the RHAs are, in fact, represented by MPATT. The Minister did not mention anything about MPATT. Did you consult MPATT? Did you consult the Medical Council? Which other professional body did you consult? Why is it only the PSA when you are trying to move all your doctors from under the ambit of the PSA? So, it is contradictory. You have to come clean. You cannot have it both ways. The doctors are not going to be under the ambit of the public service. So, talk to the other unions or organizations that represent doctors who are part of the RHAs.

I have the Public Service Regulations code of ethics before me that the Minister spoke about. The Minister spoke about it as if it were a bomb. He said that it was so similar, but it is not. There are general similarities and so on, but there are very pointed issues that were brought up in these regulations that would have a very negative effect on the way health care is delivered in this country.

Regulation 5(1) says:

“An employee shall not—

- (a) engage in any activity which would in any way tend to impair his usefulness as an employee; or

- (b) engage in any occupation or undertaking which is in conflict with the interest of the Authority or is inconsistent with his position as an employee.”

The question that comes to mind is what does this mean? I do not know what it means. It says:

“An employee shall not—

- (a) engage in any activity which would in any way tend to impair his usefulness as an employee;”

What does that mean? It could mean any number of things. Does it mean if he has two drinks after work? What I suspect it means is that the Government is trying to curb the issue of doctors who work in the public health service in Regional Health Authorities and who also have private practices. That is what I would assume it means, given the broad brush and the vague language. This so-called piece of legislation would have to stand up to the scrutiny of the courts and so forth.

It continues:

- “(b) engage in any occupation or undertaking which is in conflict with the interest of the Authority...”

What does it mean? What activity would our health care professionals engage in, that would conflict with the interest of the authority? They could not be talking about exercising his professional work. Is it the exercise of his or her professional job outside of the authorities that is in conflict with the interest of the authorities? Is this what they are trying to say? Is this inconsistent with his or her position as an employee? Are you saying that any exercise of your profession outside of the authority is inconsistent with your position as an employee?

10.45 p.m.

If so, say that, do not try to give this coded paragraph here to mean that, because there is a tradition that has been recognized and agreed on by both sides, that doctors or health care professionals would have the ability to practise outside of the public service and so on.

In the first place, who is going to judge whether this activity would impair his usefulness as an employee or this activity is in conflict with the interest of the Authority? In the second place, if you have this tradition of workers in the health care sector who have been able to work in the health care sector, public sector and private enterprise and you want to change that, then you have to open the dialogue

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and say it openly that you want to stop that, then that will open a whole issue and you will have to deal with the issue on how are you going to provide proper remuneration and so on to the employees, so that they would not work outside, and deal with it in an upfront principled way; do not come with these coded clauses here that could mean anything and mean nothing.

I was speaking to an eminent doctor recently, who was telling me how hard he worked as a young doctor, his itinerary, hours of work, how he worked in the public sector in the morning and had his private practice in the evening, and after that he would go back and check on his patients. He said that he worked long hours and he was very proud of his accomplishments and achievements, juggling and the challenges of working both in the private sector and the public sector. That is how it has been and that is how it is. If you want to change that then say so and enter into a dialogue with doctors about it; that you cannot work in your private practice and in the public service at the same time, because it is conflicting. Put your cards on the table and let us know what is happening.

We also have the issue—I am very aware and all of us are aware—of the public complaining that doctors who work in their private enterprise and in the public health service do not give the kind of hours that they should give or are not there in the hospitals when they should be there. You have issues like that and therefore they are short changing the RHAs or the public health institutions. Then that is a management problem. If you have that problem then you have to solve that problem by having proper management processes and so on that would deal with that. If you feel that the management processes and so on that you have instituted are not dealing with that, then you need to deal with it in a definite way by prohibiting that kind of interaction between private and public work, then say so and start the dialogue; how are we going to solve this problem, because this problem has to be solved in the interest of the people who access the public health institutions for medical care.

It hits home every day when you know of people personally who have died because of lack of care in the medical facilities. I know of one very charming, very intelligent, very articulate lady from Cedros, who died recently in the San Fernando General Hospital. She waited over 25 hours for medical attention for a heart condition; did not get it; left and went to a private medical institution. By then it was too late, she died very soon after, because she was denied medical attention in a timely fashion in this country.

If the Minister is aware of problems associated with the issues of doctors working both private and public, he should put his cards on the table and tell us what the problems are, how he proposes to solve them. Have you discussed it with MPATT, the PSA? What are you going to do about it? He should not come here under cover of regulations and make these coded statements; he should not do that. It is not fair to the doctors, health care professionals or to the public, and this is the position.

The Public Service Regulations also differ from the regulations that we have before us, in a number of other clauses. In these regulations before us—it is true that in the Civil Service Regulations, 138 says that:

- “(1) An officer shall not make any unauthorised disclosure or make copies, for purposes unrelated to the performance of the duties, of official documents, papers or information of which that officer may have become aware in the course of the performance of duty.”

In clause 7 of the RHA regulations we have a similar provision that:

- “(1) An employ shall not—
- (a) make public or communicate to the Press or to an individual; or
 - (b) make private copies of.

documents, paper or information of which he may have become possessed in his official capacity, unless he is required to do so in the performance of his duties.”

So we have a similar regulation there, but then as opposed to the Civil Service Regulations, which has no such provision, the regulations of the RHAs go on to include a number of other clauses that are totally new and outside of the Civil Service Regulations provisions.

I noted the statements by the former speaker, Sen. Prof. Deosaran, and he spoke to the fact that you need to have rules and regulations in terms of the kind of statements that an employee would make to the public. As we said we saw in best practice legislation and Canadian legislation that you also have freedom of speech; that is enshrined in their legislation.

Some of the clauses inserted into these regulations we feel infringe, as Sen. Mark said, on our freedom of speech in this country and the freedom of speech of the members of the public health service. That can be inimical to the public,

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because I am not sure that we would want to condone the use of regulations to stifle freedom of speech, when you are dealing with lives, with issues that would affect the public health and public safety. So, we have to balance that off; we have to see whether or not we are so concerned, that we are so paranoid about professionals having freedom of speech as opposed to the fact that that freedom of speech may save our lives.

Mr. President, I do not believe that any professional would take this freedom lightly. I believe that professionals who speak out will do so as a last resort. I do not believe that people who have been trained and have gone through a whole seven years of training, who have taken the Hippocratic oath and who have morals and ethics that are supposedly of the highest standard, would just come out and say things that are without foundation, that have no truth, that are inimical to the interest of the Authority without having very good reason. People only speak out like that as a very last resort.

We have to understand what we are doing when we bring these regulations and pass these regulations, such as regulation 8 that says:

"An employee shall not allow himself to be interviewed on questions of public policy or on matters affecting the Authority unless it is required in the performance of his official duties..."

That is okay, but when you come to regulation 10, it says that:

"An employee shall not, except in the case of the official organs of staff associations or professional associations -

- (a) act as editor of;
- (b) participate in the management of; or
- (c) contribute anonymously to,

any newspaper, statements or article which may reasonably be regarded as a commentary of the politics of the country or the administration of the Authority, without written permission of the Board."

This is a very clever clause inserted there, looking at the Minister, purported to be similar to the clause on the civil service, but it is very dangerous because you have inserted here that the employees are prohibited from commentary on the politics of the country in addition to the commentary on the administration of the Authority.

As I said before, there might come a time when the employee has exhausted all the internal mechanisms, means and so on and he will have to come out; he will have to search his conscience, his soul and expose the administration of an Authority when he feels that it is in the public interest to do so. Then you added on to that that he should not make any commentary even anonymously on the politics of the country.

What does the politics of the country mean? Does it mean that you should not criticize the fact that the streets are dirty, that there is garbage strewn in the communities that would affect primary health care and public health? What does the politics of the country mean? That covers a whole range of issues; that is enormous and mind boggling, because politics is everything; politics is the way we live; it is about social issues, cultural issues; politics covers a whole range of issues.

So, when you tell a professional and a health care worker that he should not make any commentary on the politics of the country; what are you doing to his freedom of expression and his freedom of speech in this country? They slip this into the regulations purporting to be similar to the regulations that the UNC brought in 1996 and it is not true. You are misleading the Senate and the Parliament when you say that, because we have nothing like this in the regulations, that a public servant should not comment on the politics of the country. [*Desk thumping*]

Sen. Mark always says here that our freedoms and rights are not taken away in one fell swoop, they are taken away by degrees and so on. When we are not alert and not vigilant, these little things slip into legislation, and one morning we are going to wake up and find ourselves not going to be able to open our mouths in this country. This is what we are heading to when these pieces of legislation pass through this Parliament and are passed by this Parliament. We would like to take the opportunity in this Parliament to totally denounce this Government for bringing this kind of regulation in this kind of fascist statement into this Parliament. [*Desk thumping*] How could you do that? We are not sleeping on this side; we are not stupid; we are wideawake; we are looking at you and we are advising the population to do the same.

This is why we had a shutdown yesterday, because people are looking at this Government. [*Crosstalk*] This is why many workers stayed at home, rested and reflected yesterday, because they are reflecting on the sins of this administration. [*Crosstalk*]

Before I go on to regulation 14, which is a disturbing regulation, of course, we have regulation 12 where it says:

"An employee -

- (a) shall not become indebted to the extent that it has brought or is likely to bring the Authority into disrepute;
- (b) who is so indebted, whether to the Authority or to any other person or institution, shall submit a full statement of his indebtedness to the Chief Executive Officer; and.
- (c) shall make arrangements for the repayment of any debt."

That is similar but not exactly one of the clauses that we brought as a code of conduct in 1996, because we said that the employee should not be indebted and so on, so as not to bring the organization into disrepute.

11.00 p.m.

The thing is that this issue about submitting a full statement of his indebtedness to the Chief Executive Officer and making arrangements for the payment of the debt and so on, I do not know if that is within the ambit of the authority of his employer. I am not sure which employer has that authority or has that mandate to ensure that a worker submits a statement to the Chief Executive Officer. I do not know where this would be coming from. This is not part of the Civil Service Regulations.

Regulation 14 is a very troubling regulation also; it says:

"An employee shall not solicit the intervention or influence of members of Parliament, Ministers, members of the Board or prominent members of the community to support or advance his individual interest in the Authority."

Now, right away, that rules out the ability of members, health workers and so on, to write to the joint select committees of Parliament to apprise them of issues that they would have as workers in the Regional Health Authorities. In the last Parliament, we, as members of the joint select committees which dealt with the Regional Health Authorities and so on, received several letters from members of the Regional Health Authorities across the board; professional, non-professional, and based on these letters, based on these issues, we were able to raise these issues with the board and we were able to get answers to satisfy, at least, the persons who wrote us, that they can get an answer, because sometimes within that authority, within that environment, you do not get answers from your superiors.

They are too busy or they are too biased, or whatever, may be the problem, and people go through all the mechanisms and they do not get proper answers. They feel victimized, they feel aggrieved and so on, and these are health workers whom you are talking about; people who have people's lives, literally, in their hands every day. Whether they actually work with patients, they work with files, or they work with records and so on. All the workers in the Regional Health Authorities are important in the final analysis to the health of the people whom they serve.

Therefore, when you have aggrieved persons, when you have persons who are demotivated because they cannot get answers, and you have this mechanism, you have this instrument, which is the joint select committee of Parliament to which they can turn to get answers and you tell them in these regulations that they should not solicit the intervention of Members of Parliament to advance their individual interest, then you are striking out another means of justice in this country. This is what this Government comes to this Parliament every single time to do; restrict us and pin us in a corner in this country where you have no access to justice.

Right now everybody knows that the criminal justice system is in shambles and you have a situation where people are murdered, people die and there is no access to justice, and you are extending the situation now to the Regional Health Authorities workers who have their last refuge, their last access to justice when all else fails within the organization, you are striking it down. This is what you are doing with this clause and it is very troubling, it is very bad. I believe that people would be very upset with this clause. Why do you want to prohibit people from accessing the instruments of Parliament to access justice?

Regulation 16, although on the face of it, is similar to the regulations in the Public Service Regulations, it says:

“An employee who is offered a bribe shall immediately inform the Chief Executive Officer, who shall report the matter to the police and advise the Board.”

Well, on the surface of it, that seems reasonable but the point is, the way this regulation is couched, I am not sure how you are going to determine if you are being offered a bribe. If somebody says, “You look thirsty, look a glass of juice”, he is doing something for you, is that a bribe? There should be a greater degree of clarity to determine if somebody is really trying to bribe you, because somebody might innocently say you look thirsty, look a glass of water, juice or whatever it is. How would you know if the person is trying to bribe you or if the person is just being nice or considerate? How would you know?

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So, that whole question of bribe and being offered a bribe and so on, it is very technical and I think it needs to be properly elucidated. It is very difficult just as it is couched, I believe, to run immediately to the Chief Executive Officer if somebody offers you a soft drink. Is he trying to bribe you because you are doing something for him? I do not know. This is something that I believe that needs to be—I mean, it is clear that if somebody offers you money and there are things that would be clear that they are offering you a bribe, but then sometimes it would be very difficult to run and inform the Chief Executive Officer in a situation where it might not be so clear.

Another of the regulations which we found very troubling is under the section “disciplinary proceedings”. That is regulation 20(1), and these regulations here, regulation 20(1) right on to 25 and so on, they are not part of the Civil Service Regulations. These are new regulations, this is a new approach and it is a very troubling approach, because it says that regulation 20(3):

“Where criminal offence appears to have been committed by an employee, the Board shall ascertain from the Director of Public Prosecutions whether he contemplates criminal proceedings against the employee, before instituting disciplinary proceedings against the employee.”

I am not sure. I am not a lawyer. To me, the Director of Public Prosecutions is not a member of staff of the Regional Health Authority. How could the Regional Health Authority board be given that power to approach the Director of Public Prosecutions to find out if he is contemplating criminal proceedings against an employee and so on?

The Director of Public Prosecutions is an independent office. It is a very sensitive office and he, in his own determination, determines whether somebody would be prosecuted and so on, and I think it is highly improper that a board should be permitted to approach the Director of Public Prosecutions in this manner. It is highly improper. Therefore, this whole question of regulation 20(1), (2), (3) and (4) where in subregulation (4):

“Where the Director of Public Prosecutions advises that criminal proceedings are contemplated, the Board shall not act under subregulation (2) before the determination of criminal proceedings and the expiration of the time allowed for an appeal.”

All of that is highly improper. How could you even contemplate this sort of interaction between the Director of Public Prosecutions and the board of an RHA?

Highly improper and dangerous, and that should be struck out completely. It is preposterous.

In regulation 21(1)(b) we have another troubling provision of these regulations. Because in 21(1) it says:

“Where an allegation of misconduct is made, the Chief Executive Officer shall —

- (a) in addition to making a report as required under regulation 20(1), inform the employee in writing of the allegation; and
- (b) forthwith refer the matter to a neutral employee to investigate the matter.”

My question is, what does that mean? “Forthwith refer the matter to a neutral employee to investigate”. What does neutral mean? What does that mean? Because in these institutions and in every workplace there is a lot of politics, there are people who do not like other people, there is a lot of competition, there is all kinds of things happening in a workplace that the board would not be aware of and all sorts of interactions, contradictions and problems between employees and so on. That is the politics in the workplace, every workplace has that.

Therefore, when the Chief Executive Officer is mandated to refer the matter to a neutral employee, what does that mean? Who is a neutral employee? How would you determine what is the definition of neutral? So that is another preposterous suggestion and I do not know why they do not have a disciplinary committee that would investigate, that would undertake what is happening? This neutral employee is very dangerous as Sen. Mark said. It is opening the door wide for all kinds of misdeeds and miscarriage of justice and so on. As I said before, you are talking about employees involved in a very sensitive sector, the health sector.

Regulation 26 says that:

“An employee who is charged with misconduct shall be allowed to state the name and address of any person that he desires to give evidence at the hearing.”

Subregulation (2) says:

“A person whose evidence is requested by the employee under subregulation (1) shall be —

- (a) required to attend at the hearing where such person is an employee of the Authority; or

- (b) given notice requesting such person's attendance at the hearing of the employee, where that person is not an employee of the Authority.”

So, Mr. President, what this regulation is saying is that the board now is empowered to subpoena persons. I do not know since when a board of the RHA and so on, can require somebody to attend a hearing. So if two persons have a problem and one of the persons can say, “Oh”, person “A” was present; person “A” might not want to become involved; person “A” might have his own reasons for not wanting to become involved or he might not feel that he saw enough or heard enough to become involved in that, just on the basis that person “B” is saying that person “A” was there; person “A” is required to attend a hearing, so the board has the authority now, to subpoena this employee because he is an employee of the authority? I find that very disturbing, and the thing is, if he does not come, what is the penalty? They said that you are required to attend, so therefore, it implies some penalty, some punishment, if you do not attend and it does not say. That is also very disturbing that it does not say.

So, Mr. President, these regulations are extremely strange to say the least and it is all—but it is not that strange because you see, this Government is on a road to tightening a ring around our citizens; taking away our rights, our freedoms to speak, to act and so on, and this is a reflection here. You see these reflections here in these small regulations that are tucked into small clauses that are tucked into these regulations that the Minister purports are similar to the ones we brought. It is not! I repeat, it is not. It is very different and very dangerous, dangerous difference.

Some of the issues that we object to very strenuously are outlined for example in regulation 39(1), where it says:

“An employee who is found guilty of a charge of misconduct shall be liable to any of the following penalties:”

And it goes on to a whole range of penalties:

- “(a) dismissal;
- (b) suspension for a specified period;
- (c) reduction in rank;
- (d) reduction in remuneration;
- (e) deferment of increment;

- (f) stoppage of increment for a specified period;
- (g) reprimand; or
- (h) a fine.”

So, you have a whole range of issues that are considered misconduct and then you have a whole range of penalties for the issues of misconduct, and there is no specificity that would let us know as legislators what do you have in mind for penalties for a particular kind of misconduct. That is very easy to do. These are regulations and this is what regulations do, specify these things.

11.15 p.m.

But you come here very broad-brush, very vague, and therefore, these can be implemented in any way that the board, the CEOs and so on see fit. That is going to lead to miscarriage of justice, discontentment, a very volatile public health sector employee situation, and a deterioration of the delivery of public health services in this country.

How could you say that you have a whole range of penalties and they are not linked to any of the issues of misconduct you have? We are not saying that people should not be penalized for misconduct, but not in this way. The regulations cannot be this broad and wide. One of the issues here and I think Sen. Mark spoke about it, is the fact that you cannot take away people's property without due process. You have reduction of remuneration here as a penalty for what? For coming late? That is what this implies because this is not attached to any particular misconduct.

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

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

Question put and agreed to.

Sen. Dr. J. Kernahan: Thank you, Mr. President. This Government is on the road to eroding the rights and freedoms of our people, and we are not surprised that it wants to curb the free speech of Members of Parliament in this Senate.

As I was saying, we cannot have these regulations in this manner. You cannot have a whole range of penalties for a whole range of issues of misconduct, and there is no clear idea of which penalties are attached to which issues of

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misconduct. Because you can have many arbitrary decisions being made by persons based on very subjective and very biased, or even political views against employees, and we strongly object to that.

Mr. President, we are very upset at regulation 40 and I think Sen. Mark mentioned it, that:

"(1) The Board shall not dismiss or otherwise punish an employee who has been acquitted of a criminal charge in any Court arising out of an act of misconduct."

And in subregulation (2) of that regulation, it says:

"Notwithstanding subregulation (1), an employee may be punished in respect of another charge arising out of his misconduct where the charge is not substantially the same as that in respect of which he has been acquitted."

So, you charged somebody and because they are acquitted of a charge, you find something else to charge them with. This seems to me to be arbitrary and unfair, and if you charged somebody; if you have investigated a situation and charges are necessary and pertinent, charge the person. If they get off, they get off. But you cannot come back and say now that you have the authority or the leeway now to bring another charge against the person because it is not substantially the same as that in respect of which he has been acquitted. That is arbitrary, unfair and it is not in keeping with natural justice.

Mr. President, these are some of the major areas that we found very disturbing in these regulations. As I said before, these regulations are not in any way similar to the Public Service Regulations code of conduct that we brought in 1996, and especially in regulation 52(1), where it says that:

"On consideration of the record of the proceedings and recommendations submitted by the disciplinary tribunal under regulation 51, the Minister may affirm, annul or vary the findings of the disciplinary tribunal."

I find that extremely strange that you go through the whole process of having a disciplinary tribunal doing the investigation, coming to your findings and so on, and then just so, the Minister may affirm, annul or vary the findings. Why? I do not understand the rationale for that.

The problem is if any party has a problem with that, you should have the opportunity to go to the courts or to a higher authority and deal with this in a manner that is in agreement with the laws of the land and so on, and the

procedures that we have to establish the truth and to get justice. Better we go to the Minister right way. Why go through the whole process, the whole rigmarole and come to the decision and then the Minister can overturn it or do what he wants with it? Just go to the Minister and ask the Minister for determination, if that is what you want to do. So, regulation 52(1) is very strange and that is not in keeping with any justice system that we know or that we care about.

The Minister made the bid that this is very similar to our legislation. It is nothing like our legislation. It is a very disturbing piece of legislation. It is a piece of legislation in line with the trend that this Government is taking of dictatorship, of muzzling the population, and of muzzling groups that they feel that are not knuckling down or not agreeing with everything that this Government does. We are saying that this legislation has to be repealed. It should be withdrawn and whatever creditability the Attorney General has left, she should really take a look at this and withdraw it.

Thank you. [*Desk thumping*]

Sen. Michael Annisette: I rise to make a contribution on these Regulations. Let me first say that the question of regulations is important in any work environment. In the absence of regulations, you are going to have chaos and disorder; therefore, I have no issues with the regulations being presented by the Government. However, as someone who likes to speak of the involvement of all stakeholders in anything that is happening and that may affect them, the issue of only consulting with the Public Services Association (PSA) is something on which I believe that the Government would have made an error. [*Desk thumping*] The doctors quite rightly, who are very fundamental on principle in respect of the health care system, and therefore, have an integral part in terms of where we carry the health system, should have also been consulted as far as I am concerned.

Mr. President, we come here too often to debate issues and I am getting a little worried everyday on what the UNC did and what the PNM did, as opposed to what is right for Trinidad and Tobago. Therefore, the first fear that I want to take out of the public's mind, is that Parliament is not the sole sovereign entity, but it shares sovereignty with the courts, which are the protectors of the rules of law. Therefore, if laws, rules and regulations are made in this Parliament, to give the impression that there is no redress, it is totally incorrect and misleading [*Desk thumping*] I have complete confidence that if there are any issues in these particular regulations, that this court for which I have a high respect for, will do the correct thing.

Mr. President, having said that, in this insanely complex world of continuous problems and conflict that we live in, we need to start to put things right. We need to really start to think maturely as a people and to pretend that the health sector does not need regulations, I think is misleading as far I am concerned. Let me deal with some of the issues.

The question of disciplinary action which was raised in regulation 41:

"The Board may dismiss or otherwise punish any employee, without the institution of any disciplinary proceedings, in respect of an act of misconduct of which he has been convicted in criminal proceedings in a Court of competent jurisdiction."

The issue I have with that regulation is, are we dealing with industrial relations practices? Are these workers, workers under the Industrial Relations Act? Therefore, if they are workers, why are we not putting our focus on the industrial relations aspect of regulating disciplinary proceedings, rather than looking at more the criminal or High Court aspect of it? It is not unusual in industrial relations and I refer to regulation 39(1):

"An employee who is found guilty of a charge of misconduct shall be liable to any of the following penalties:

(a) dismissal;"

et cetera. That is not unusual.

I have walked with several judgments, but I do not want to burden this honourable Senate. One of the critical judgments is *Sharma Lalla vs Caroni (1975) Limited* matter in the High Court, No. 2104 of 2001. This was a Chief Executive Officer who was dismissed on May 31, 2001. He took his matter to the High Court and he won the matter. The court was clear because of the fact—the court said that there are certain labour laws encyclopedias which guide you in terms of labour laws and rules and regulations and the High Court followed it. The information to allay some of the fears are:

- "1. The modern test is basically whether the conduct by the employee about which the employer complains is a breach of an important term of the contract of employment;
2. Breach of an important term nowadays will not necessarily give rise to a right of summary dismissal if it occurs in such circumstances that the employee has a reasonable excuse or justification of his conduct;

3. Single acts of misconduct are somewhat less likely to give rise to a right of summary dismissal than is a persistent pattern of misconduct; in the case of a single act of misconduct a record of unsatisfactory behaviour may tip the balance and lead the judge to view that there are grounds for summary dismissal;
4. What is to be regarded as an important term will also depend upon the nature of the business or industry and the position of the employee; and
5. Whether misconduct is sufficient to justify summary dismissal is not dependent upon proof that such misconduct has had in fact serious consequences; the test is the nature of the misconduct itself."

The point that I am making is that our High Court—I have several court judgments here that will speak to this—has already made judgment which is guidance in terms of how you deal with matters of this nature. So the fear that is being expressed and the impression that is being conveyed, I think it is misleading.

11.30 p.m.

The court has already given directions in terms of how you deal with these particular matters; therefore, workers and members who are not workers under the Act can go to the court to get redress. There are principles that have already been settled in terms of conduct, in terms of how you deal with these matters. There is a plethora of judgments relative to that particular issue.

There is another fear that has been expressed. I make reference to the Recognition and Certification Board, another judgment again, where that Board, under section 23(7), excludes any court from expounding on any matter touching the interpretation and application of the Act relating to the Board's function, responsibility and so forth. What has happened? Again, there are several court judgments which have demonstrated and ruled against the Recognition Board, notwithstanding laws enacted by Parliament which say that you cannot interfere with a decision of the Board. So the issue of natural justice and several other principles would apply. If the Board goes out of that jurisdiction, the High Court could overturn that decision.

The point I am making is that there are provisions and judgments which have demonstrated—they call them ouster clauses—that the court could intervene in such circumstances. I want to get that clear.

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Industrial relations law is totally different to civil and criminal law. Industrial relations have their own antecedents and procedures in terms of how you deal with matters. One of the issues I would deal with is the one I saw enacted here, because the Industrial Court is clear that you do not have to wait on a criminal matter to be completed; you can have internal industrial relations matters dealt with, notwithstanding the fact that there is a criminal matter going on. The court has ruled on that.

Mr. President, I have a concern, and I hope that the Government would take a serious look at it; the question of clause 5(1):

"An employee shall not—

- (a) engage in any activity which would in any way tend to impair his usefulness as an employee;"

I think this clause needs to be relooked at seriously, because it can be open to so many interpretations; it can mean so many different things. It is not specific and can subject itself to abuse, notwithstanding the fact that it has a redress, but, at the same time, I do not think that we want to have a law or any rules and regulations that are so cumbersome they create all kinds of issues in terms of interpretation. I humbly suggest that the Government take a serious look at that particular regulation.

The other issue is about employees not publishing information. While I appreciate the attempt and the direction of this regulation, I think that we are bordering, very thinly, on the question of my right as an employee to express myself. In that context, I think we need to elucidate that particular provision to speak more to what you really want to capture, rather than convey the impression that you are treading on my right of expression. I ask the question: If I am a union officer, what does it mean in terms of my right as it relates to this particular clause? Will I be affected or will I not be affected? Does it exclude union officers or is it just specific to employees only? These are fundamental questions that we need to ask, as they relate to this particular issue.

More importantly to me, the issue of the health care system is something that persons have been talking about. I have some concerns about it, quite frankly. The issue is how we use this regulation to speak to proper health care; how do we inculcate in the minds of everybody in the health care system that they are doing a service to the people; how do we address some of the behavioural or cultural practices that speak of insensitivity to the public. These are fundamental issues that we need to address.

I was concerned when other Members spoke to the fact that if you passed rules and regulations, you would get a reaction from the doctors and the patients would suffer. If that is the mentality of the doctors, then they have no right to be doctors; they ought not to be doctors. This regulation comes smack into how you are supposed to deal with that, because health care is essential; it is fundamental. We must not, at any time, allow those circumstances, our personal issues, to affect our deliveries to the general public. Therefore, that kind of utterance ought not and should not be expressed at this forum, which I believe is one of the highest forums in Trinidad and Tobago, because we would give the wrong impression to the public outside.

I have a saying that because of what is expected of the doctors and workers in the health care sector, the rules and regulations would be more stringent than those for ordinary workers, and they have to understand that. Those are realities that we cannot deny; those are facts.

My approach to this particular matter is that, while I understand what they are saying, to make it appear that the law is draconian—and even though it is so, assuming but not admitting, [*Desk thumping*]*—the point is that there are a plethora of court judgments here. I do not want to burden you with these issues that speak to some of the issues raised by my learned friend and trade union colleague, Sen. Mark. So I have no fears in terms of the ability of the judicial system to take care of any attempts to go outside of the law, because Parliament is not a law unto itself. Having said that, I hope, I trust and I pray that we would be able to put our collective wisdom here to ensure and inculcate in the minds of the health workers what their responsibilities are, rather than attempt to politicize the rules and regulations and not deal with the critical issue, which is proper health service delivery to the citizens of Trinidad and Tobago.*

I thank you.

Sen. Mohammed Faisal Rahman: Mr. President, I must begin by paying the highest compliment to our fellow Senator Annisette. I am always very impressed by his contributions, and I compliment him. He knows I have a soft spot for him, but I have to say it publicly. [*Interruption*] That does not detract from what other Senators have contributed tonight. [*Laughter*]

I will go further. I do not want to sucker you into a situation; I want to compliment the Government [*Desk thumping*] on having taken direction from a 1996 law that was drafted by the UNC. But I must take you to task, because, unlike the children package which you sought to nitpick and dress up and change

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and to dot and cross, you did not take enough care with the 1996 legislation passed by the UNC. It was good in 1996, but, today, a lot of water has passed under the bridge. Mr. President, I will explain.

The mature reflection that Sen. Mark brought to what we had produced in the earlier days is something that you have not arrived at as yet; this is where we would like to make our contribution.

There are many, many aspects of the regulations that remain good and valid, but there are certain aspects that I would like to point out, which really need attention. I would strongly recommend that the Government, after we have all spoken tonight, not be in a rush to pass this out of ego or whatever, but that you be prepared, not to put it to the vote, but to withdraw it to have it revised and revamped in a comprehensive way, based upon the recommendations that have come out of this side.

One of the things I would say, concerning what Sen. Annette mentioned, is that while I also have confidence in recourse to the courts, I am personally aware of the cost of going to court. The cost of going to court is often prohibitive, and we do not want to permit violations to employees that would require redress to the court at a cost that is prohibitive and, thus, as a result, have the consequence of denying justice.

Chief executive officers who have been fired can afford to go to the courts, but junior employees are not always so fortunately placed. In my earlier career, I have had several instances where my rights were violated, but I could not get legal representation with my very shallow pocket, so it was a difficult matter.
[*Interruption*]

Sen. Annette: I just wanted my learned friend to hear this. I made two fundamental points; one, under the Industrial Relations Act if you are a worker you can go to the Industrial Court and carry your matter, notwithstanding what these rules and regulations say. If you are not a worker, well then your avenue is to the High Court. So then if you are a poor little worker like me, I would go to the Industrial Court and I will be protected.

Sen. M. F. Rahman: We do not only want to protect the poor little workers; we want to protect the other workers as well, because you would have situations where a middle level employee—and not only that, but I believe there are regulations that you must belong to a union, you must have representation, and if

you do not, you cannot take recourse to the Industrial Court. So there are circumstances in which recourse to the civil courts will remain a necessity and a prohibitive course of action for the aggrieved employee.

I put it to the House that we do not want to leave a situation where employees may be disadvantaged because of the lack of facilities that are excluded from the regulations that you are trying to pass. I am going to give some particular points, and then I will get on clause by clause.

11.45 p.m.

There are instances where employees in the health sector—and I have the opportunity of being closely related to doctors who have had experience in the health sector. It often happens that because of a shortage of staff at different levels sometimes you cannot get a consultant at nights and there are several departments where they are not available because of short staff.

Sometimes health workers are overburdened and overworked and you are putting down many infringements that can come directly out of overwork and overburden. There is also the question of victimization, egos, and where senior employees take advantage of junior employees. It is a human situation and people can go off the handle when they are being pressured and pressured. I am even sorry for the doctors who have to work 24-hour shifts sometimes and still do rounds and really get stretched.

So we are dealing with a very important sector and it is not like the run-of-the-mill situation where you have committed an infringement, you broke a law, you are going to be punished and we are going to bring a board and try you. No, it has to be much more carefully done.

As I said, we will go through the clauses one by one but let me speak to the point here. In addition to a lack of staff or supplies, testing equipment and all sorts of things, there is a situation with the same human ego thing. Nobody likes to be shown up, nobody likes to be revealed for having botched something. We know that the Ministers in the different administrations ask the people why they went to the press and why did they not come to them or why they embarrassed them when they know they are being delinquent and culpable, but they would like a chance to have it quiet.

There is a situation where the hierarchical administration within the services will often not want to admit to shortcomings and faults, and as a result, errors within the sector can be compounded by a dereliction from attention. I am going to cite a very celebrated case here because we look to America for their First World everything.

Up until 2007 there was a hospital called Walter Reed Army Hospital; I am sure you know about it. It was the pearl, so to speak, of health care particularly for veterans and is run by army personnel. But the situation was such that nobody within the system there wanted to make the hospital look bad and all the internal devices for self-correction were used but yet they were suppressed, so that over a period of time all the shortcomings of the Walter Reed Hospital grew exponentially until it became a rat hole literally with everything in shambles.

In 2007, veterans and patients who had suffered at the hospital had to go to the Washington Post which did an investigation and blew the story wide open. This is what we are likely to cause if we completely suppress free expression. You see, freedom of expression has a purpose, it does not only mean to say I can say what I want, it means I must be free to speak on behalf of others; I must be free to point out the faults in the society; I must be free to bring the attention of the authority to affairs that require correction. This is an important aspect of freedom of expression and when we prevent employees in the health sector from speaking out, they are going to leak the news, they are going to come to the Opposition and give us information and it is going to be raised in Parliament, or they are going to leak it to the press.

When you set up an official sanction for abuse by suppressing the voice of discontent, you are doing severe injustice to the institution that you have established to look after the public good. I suggest that you classify leakages and outspokenness on the part of employees as bad when it is proven to be malicious and ill intended and slanderous to the institution, not when an employee says “this is not fair to the public, we have had people standing here for 10 hours in the corridors.” That is the only device that can permit the government or the authority—and I am not trying to embarrass the PNM Government; whatever authority is in charge, it could be the UNC at the next election, but the reality is that the employees must have the inherent right to speak out. And further to that, there is nothing in this set of regulations that deals with grievances or complaints against the authority and the steps to take further.

You are looking at every point to penalize the employee for every infraction, but you do not give him an opportunity to voice his views and say what is wrong. So you cannot have a one-sided coin, a coin has to have two sides. You have to have an opportunity for the employee to speak out to somebody and if he is not taken on, there must be a device whereby he can bring the shortcomings of the institution to the public's attention. We are not dealing here with public servants, we are dealing with dedicated health care people in whose hands the nation entrusts the lives of all the people who get sick and have to go to these institutions.

So it is extremely important for us to understand that you cannot simply take regulations out of the 1996 excellent set of regulations, and out of context apply them to a specialized area. This specialized area of the RHA is something that requires a greater amount of sensibility and sensibleness, wisdom and understanding of human psychology ego. And what are you trying to accomplish with the institutions being in existence in the first place? You do not only want to have regulations to correct the employees and keep them straightjacketed, you want to have regulations that will conduce to the better service of the public.

I am just thinking about the dengue outbreak or epidemic or whatever. It is a sensitive issue, and the Government is terribly embarrassed over this matter, the whole country is up in arms perhaps because the matter is being blown out of proportion, I do not know.

If there were 400 cases last year and 401 cases this year, we do not have a bigger situation than we had last year, I think that is the point you are trying to make, but the question of 400 cases is at any time an unacceptable situation. We have always talked about the eradication of malaria, why can we not have a sustained insect vector programme to eliminate dengue? You have been in office for a long time—not you Minister of Health, the PNM.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, given the time, the number of speakers still, and the matter before us, I beg to move that the Senate do now adjourn to Tuesday, September 16 at 10.00 a.m. where we would do the Bail (Amdt.) Bill and continue with the debate on this Motion.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 11.56 p.m.

WRITTEN ANSWER TO QUESTION

Hobsons Law Firm (Details of Services)

84. Sen. Wade Mark asked the hon. Attorney General:

- (a) Could the Attorney General provide the Senate with the names of the government ministries, state enterprises (fully or partially owned),

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statutory bodies and/or corporations which have engaged the services of law firm Hobsons during the period January 01, 2006 to May 31, 2008; and

- (b) Could the Attorney General also provide the Senate with a breakdown of all the fees and/or sums of monies paid to the law firm Hobsons by each of the entities that engaged their services?

The following reply was circulated to Members of the Senate:

The Attorney General (Sen. The Hon. Bridgid Annisette-George): With respect to the question referring to the engagement of the services of the law firm Hobsons by ministries, state enterprises, statutory bodies and/or corporations, and fees paid to that firm, the Ministry of the Attorney General is only at this point in time able to provide information regarding the engagement of the law firm Hobsons by the Ministry of the Attorney General, the Ministry of National Security, the Ministry of Foreign Affairs, the Office of the Prime Minister and the Office of the Prime Minister in Tobago.

The law firm Hobsons was retained by the Ministry of the Attorney General once in the period 2006—2007 and was paid \$7704.50. They were not retained in the period 2007—May 2008. The Ministry of National Security, the Ministry of Foreign Affairs, the Office of the Prime Minister and the Office of the Prime Minister in Tobago did not engage the services of the law firm Hobsons in the period 2007— May 2008. Information regarding the engagement of the services of Hobsons by other ministries will be made available as soon as it is obtained.

However, the Ministry of the Attorney General is in no way involved or responsible for the retention of external legal counsel by state enterprises and/or statutory authorities and/or corporations.