

*Leave of Absence**Tuesday, May 19, 2009***SENATE***Tuesday, May 19, 2009*

The Senate met at 1.30 p.m.

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

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. The Hon. Jerry Narace and Sen. Prof. Ramesh Deosaran who are both out of the country.

SENATORS' APPOINTMENT

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

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Danny Montano
Acting President.

TO: MR. FOSTER CUMMINGS

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

NOW, THEREFORE, I, DANNY MONTANO, Acting President as aforesaid, 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 effect from 19th May, 2009 and continuing during the absence from Trinidad and Tobago of Senator Jerry Narace.

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 15th day of May, 2009."

Senators' Appointment
[MR. VICE-PRESIDENT]

Tuesday, May 19, 2009

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Danny Montano
Acting President.

TO: MR. NICHOLAS GALT

WHEREAS Senator Professor Ramesh Deosaran is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, DANNY MONTANO, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, NICHOLAS GALT, to be temporarily a member of the Senate, with effect from 18th May, 2009 and continuing during the absence from Trinidad and Tobago of the said Senator Professor Ramesh Deosaran.

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 14th day of May, 2009."

OATH OF ALLEGIANCE

Senators Foster Cummings and Nicholas Galt took and subscribed the Oath of Allegiance as required by law.

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, 2001. [*The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne)*]
2. Annual audited financial statements of Lake Asphalt of Trinidad and Tobago for the year ended September 30, 2006. [*Sen. The Hon. M. Browne*]
3. Annual audited financial statements of Lake Asphalt of Trinidad and Tobago for the year ended September 30, 2007. [*Sen. The Hon. M. Browne*]

JOINT SELECT COMMITTEE REPORT
Data Protection Bill
Electronic Transactions Bill
(Presentation)

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Thank you very much, Mr. Vice-President. I have the honour to lay on the Table the following report as listed on the Supplemental Order Paper in the name of the Minister of Agriculture, Land and Marine Resources: The First Report of the Joint Select Committee appointed to consider and report on the Data Protection Bill, a Bill to provide for the protection of personal privacy and information and the Electronic Transactions Bill, a Bill to give legal effect to electronic documents, records and signatures.

ORAL ANSWERS TO QUESTIONS
Brian Lara Cricketing Academy
(Details of)

5. Sen. Wade Mark asked the hon. Minister of Sport and Youth Affairs:

Could the Minister inform this Senate of:

- (a) the current status of the Brian Lara Cricketing Academy in Tarouba;
- (b) the total sum expended on the project as at December 31, 2008;
- (c) the estimated sum required for the completion of the project; and
- (d) the completion date of the project?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, that question, having been considered, was deferred for an amendment and I am seeking a two-week deferral of this question. I think by that time we will have it with the appropriate amendments.

Sen. Mark: I just want you to know that it is two months and one week since this question has been asked.

Question, by leave, deferred.

Motor Vehicles and Road Traffic Act
(Date for the Full Enforcement)

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

Could the Minister inform this Senate of the date for the full enforcement of the Motor Vehicles and Road Traffic Act with specific reference to the introduction of the Breathalyzer?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, question No. 15 has not yet been prepared and, therefore, it will not be ready for another three weeks.

Sen. Mark: This will make it three months, Sir.

Question, by leave, deferred.

**Upgrade of Old Piarco Airport
(Cost of)**

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

With respect to the proposed refurbishment and upgrade of the old Piarco Airport facility, could the Minister state:

- (a) The estimated cost of the proposed refurbishment and upgrade of the facility?
- (b) The names of the companies contracted to undertake the works and the values of the contracts?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, we are following a particular trend here, this question was deferred and should be ready in two weeks.

Question, by leave, deferred.

**Spanish Nationals Residing in Trinidad and Tobago
(Eligibility to Vote)**

28. Sen. Lyndira Oudit asked the hon. Minister of Foreign Affairs:

Could the Minister inform the Senate of the current number of Spanish nationals residing in Trinidad and Tobago who are presently eligible to vote in any election to be held in this country in 2009 or 2010?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, this question will be ready next week. It was recommended for approval, so it will be here next week.

Question, by leave, deferred.

**Cocoa Cultivators/Farmers
(Status of)**

30. Sen. Lyndira Oudit asked the hon. Minister of Agriculture, Land and Marine Resources:

Could the Minister inform this Senate of:

- (i) the number of cocoa cultivators/farmers at present in this country;
- (ii) the size of land under cocoa cultivation of each farmer; and
- (iii) the number of years each cultivator/farmer has been involved in cocoa cultivation?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. Vice-President, this answer is not yet ready for response so I ask for a deferment.

Question, by leave, deferred.

**Trinidad and Tobago Amateur Boxing Association
(Monetary Assistance)**

31. Sen. Lyndira Oudit asked the hon. Minister of Sport and Youth Affairs:

Could the Minister indicate to the Senate the amount of monetary assistance which was provided individually to female boxers Wendy Alleyne, Ria Ramnarine and the late Jizelle Salandy, either directly or indirectly, through the Trinidad and Tobago Amateur Boxing Association for the period 2003-2008?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, that again was deferred for an amendment, so I am suggesting that it will be ready in two weeks' time or before.

Question, by leave, deferred.

**National Academies of Performing Arts
(Details of)**

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

With respect to the construction of the National Academies of Performing Arts in Port-of- Spain and San Fernando, could the Minister provide the Senate with:

- (a) a detailed status report on the construction of the National Academies of Performing Arts;
- (b) the original estimated cost of construction of the National Academies;

- (c) the initial projected completion dates for both Academies;
- (d) the current estimated cost and new projected cost of the construction of the Academies; and
- (e) the new projected completion dates for the National Academies?

The Minister of Planning, Housing and the Environment (Sen. The Hon. Dr. Emily Dick-Forde): Mr. Vice-President, we received the answer from UDeCott, however, there is an issue that we are trying to clarify. So we need about three weeks before we can come with an answer to the Parliament.

Question, by leave, deferred.

Aluminium and Steel Plants (Modification to Government's Plans)

41. Sen. Mohammed Faisal Rahman asked the hon. Minister of Finance:

Could the Minister state whether there has been any modification to Government's plans to invest in aluminium and steel plants in the light of worsening global economic and financial structures?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, I am not in a position to answer this question. It is in its final form and has not been approved by Cabinet, so I ask for a deferral of one week.

Question, by leave, deferred.

Unemployment Benefit (Establishment of)

43. Sen. Mohammed Faisal Rahman asked the hon. Minister of Labour and Small and Micro Enterprise Development:

Would the Government consider establishing a regular unemployment benefit for workers willing to work but unable to find jobs?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the Government is in a position to answer that question; the answer is yes.

Rental of Cruise Ships (Details of)

47. Sen. Mohammed Faisal Rahman asked the hon. Minister of Finance:

Could the Minister provide the Senate with a detailed account of the cost of renting the two cruise ships to be used as floating hotels for the forthcoming Summit of the Americas?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, I can almost answer this question in the same fashion, but the final answer to this question is not yet ready.

Question, by leave, deferred.

**Rapid Rail Underground
(Estimated Cost)**

50. Sen. Mohammed Faisal Rahman asked the hon. Minister of Works and Transport:

- A. Could the Minister state whether the Government has estimated the cost of passing the rapid rail underground through Port of Spain as proposed?
- B. If the answer to (A) is in the affirmative, would the Minister advise what is the estimated cost?
- C. Could the Minister state whether in arriving at the estimated cost, consideration was given to the current trends of flooding in certain areas of Port of Spain?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, the Government is also in a position to answer this.

There is no firm proposal to take the Rapid Rail underground through Port of Spain at this time. While it is one of several options being looked at by the National Infrastructure Company Limited (NIDCO), no decision has been arrived at on the matter and, therefore, no firm estimate on the cost of this option has been prepared.

In light of the response to this part of the question, parts B and C are not relevant.

Sen. Rahman: In view of the fact that you have not made a decision, have you considered the ramifications of flooding problem at all?

Sen. The Hon. C. Enill: Mr. Vice-President, the answer is yes and the information is that the option that will be looked at will take those things into consideration and that is where the process is at this point.

**Small Business Development Company
(Monitoring of Activities)**

51. Sen. Mohammed Faisal Rahman asked the hon. Minister of Trade and Industry:

In light of several reports that funds at the Small Business Development Company are being utilized, could the Minister state what mechanisms are in place to monitor the activities of this agency?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, the monitoring and networking unit of the Ministry of Trade and Industry is responsible for monitoring the activities of the Business Development Company Limited (BDC). The BDC must submit the following reports to the Ministry of Trade and Industry for the purposes of ensuring a timely and reliable flow of accurate information for conducting continuous review of all its operations:

1. Strategic plan which normally covers a 3—5 year period;
2. Annual business plan;
3. Annual achievement status report;
4. Annual budget;
5. Annual financial statements;
6. Monthly cash statements of operations;
7. Monthly board minutes; and
8. Monthly reports on operations.

With regard to capital expenditure, the Project Management Unit of the Ministry of Trade and Industry reviews and evaluates the performance of the projects implemented by the BDC. The BDC submits to the Project Management Unit the following documents:

- Monthly approved project status report;
- Monthly invoices of expenditures on approved project activities;
- Detailed implementation plan for the fiscal period.

These documents are then incorporated into the ministry's Public Sector Investment Programme (PSIP) Report and submitted to the Ministry of Planning, Housing and the Environment on both a quarterly and an annual basis.

Apart from these monitoring activities previously mentioned, the Chairman of the Board of the BDC is responsible for, among other duties:

- Ensuring that the activities of the Board are conducted in a manner which will facilitate the attainment of the objectives of the company; and

- Keeping the shareholder informed on all matters significant to the operations of the company.

The Minister of Trade and Industry wishes to state that the BDC conducts its operations in conformity with the reporting measures as outlined in the abovementioned procedures.

Thank you.

1.45 p.m.

**Disaster Business Stimulus Package
(Details of)**

52. Sen. Mohammed Faisal Rahman asked the hon. Minister of Finance:

- A. Could the Minister state whether the Government is preparing a disaster business stimulus package to deal with fallout from the present global crisis?
- B. If the answer to (A) above is in the affirmative, could the Minister provide the details of the disaster business stimulus package?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, as addressed in question No. 21 previously answered, the Government is committed to maintaining an appropriate level of expenditure that will sustain economic growth, while minimizing the impact on unemployment. Special care will be taken to ensure the preservation of senior citizens and disability grants, training programmes and all other forms of social assistance programmes. The Government has made it abundantly clear that there would be no cuts in salaries and wages in the public service.

Whilst it is clear that the economy is affected by the global economic situation, there are no plans for a “stimulus” package at this time. Proposals have been received from the Trinidad and Tobago Manufacturers Association which are being evaluated.

As a consequence of the answer to part A, part B of the question is not applicable.

**Commission of Enquiry into UDeCott
(Cost of)**

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

Could the Prime Minister provide the Senate with a detailed account of the cost of the Commission of Enquiry into UDeCott and the construction sector including the engagement of legal counsels both local and foreign as at February 28, 2009?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I am in a position to say that this question will be ready on the next occasion.

Question, by leave, deferred.

**HIV Virus
(Legislation to Protect Workers)**

73. Sen. Wade Mark asked the hon. Minister of Labour and Small and Micro Enterprise Development:

- (a) Is the Minister aware that workers who have contracted the HIV virus are victims of blatant discrimination at the workplace?
- (b) Could the Minister state if it is the intention of his government to introduce legislation to make it illegal for victims of the HIV virus to be discriminated against and, if so, when?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, questions Nos. 73 and 74, I will give you the answer for both. Question 73, there is a requirement for a further three weeks based on some discussions. Question No. 74 would be ready next week.

Question, by leave, deferred.

The following question stood on the Order Paper:

**Industrial Relations Act
(Recognition of Domestic Workers)**

74. Could the Hon. Minister of Labour and Small and Micro Enterprise Development state precisely what measures are being instituted by the Government to recognize domestic servants as workers within the meaning of the Industrial Relations Act? [*Sen. W. Mark*]

Question, by leave, deferred.

**International Labour Organization Conventions
(Amount Ratified)**

75. Sen. Wade Mark asked the hon. Minister of Labour and Small and Micro Enterprise Development:

Could the Minister state how many International Labour Organization Conventions have been ratified by the Government since January 1st, 2007 and how many are earmarked for ratification by November 2012?

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, we are in a position to answer this. However, the answer consists of pages 1, 2, 3, 4 and 5. If the Senator is in agreement, I would want to have it copied and circulated.

Sen. Mark: I hear what my colleague is saying, but maybe he can give us the first three or four paragraphs so at least we will have an idea of where it is coming from, otherwise I would have to ask him to read the entire document. So if we could agree on that, through you, Mr. Vice-President, I would be willing to allow.

Sen. The Hon. C. Enill: Mr. Vice-President, I would read the entire thing. I have absolutely no difficulty with that.

Trinidad and Tobago has been an active member of the International Labour Organization (ILO) since 1963. The ILO has been influential in terms of the development of labour standards, training for capacity building, promoting tripartism and enhancing the system of labour relations and inspection in Trinidad and Tobago.

Before launching into the substantive aspect of my response to the question raised by Sen. Mark, permit me to share some background information on labour standards and the process by which Conventions are ratified in Trinidad and Tobago.

Labour standards are translated into instruments known as Conventions and Recommendations. Conventions are binding instruments open for ratification by ILO Member States. Recommendations provide guidelines on the implementation of conventions or general principles to be followed. Recommendations are not subject to ratification but can only be adopted.

With regard to the process of ratification, the following steps are followed:

1. When Conventions and Recommendations are adopted by the International Labour Conference (ILC), which is held annually in Geneva, Switzerland, the authenticated instruments are forwarded to all Member States.
2. When these instruments are received by the Minister of Labour and Small and Micro Enterprise Development, they are forwarded to a tripartite committee under the purview of the Ministry of Labour and Small and Micro Enterprise Development, known as the ILO 144 Tripartite Committee, for its consideration and recommendation of action to be taken.

By way of background, the ILO 144 Tripartite Committee was established in 1996 to give effect to the provisions of ILO Convention No. 144, Tripartite Consultations (International Labour Standards) Convention, 1976, which was ratified by Trinidad and Tobago in 1996. The committee comprises representatives of workers, employers and Government and is responsible for, inter alia, considering the recommending action towards ratification and implementation of ILO standards. It is also the Ministry's tripartite consultative body on all matters pertaining to ILO standards such as submission of reports and replies to questionnaires from the ILO.

3. After discussion by the Committee, and if there is consensus that a Convention should be recommended for ratification, then a proposal for ratification is forwarded from the Committee to the Minister of Labour and Small and Micro Enterprise Development for his consideration.
4. The Minister, being mindful of the fact that a Convention, when ratified, becomes binding on the State, takes into consideration the obligations and implications that will arise as a result of ratification and may forward a Note recommending the ratification of such Convention for the consideration of the Cabinet. This Note outlines the reasons for ratification and steps required by the Government of the Republic of Trinidad and Tobago to ensure adherence to the provisions of the Convention.
5. If ratification of a Convention is seen as being too onerous on the State at the particular time it is recommended for ratification, then the ILO 144 Tripartite Committee is so informed and further consultation may take place.
6. Once Cabinet agrees to the ratification of a Convention, the matter is submitted to Parliament for approval and endorsement. Once Parliament approves the ratification, the decision is communicated to the ILO Headquarters in Geneva.

To date, Trinidad and Tobago has ratified nineteen (19) ILO Conventions, including the eight (8) core or fundamental Conventions. Of these, two Conventions were ratified since January 2007. These are:

- Convention No. 81 – Labour Inspection Convention, 1947; and
- Convention No. 150 – Labour Inspection Convention, 1978.

Further, two (2) Conventions were recommended by the ILO 144 Tripartite Committee for ratification and the proposals for ratification are currently being considered. These are:

- Convention No. 155, Occupational Safety and Health Convention, 1981; and
- Convention No. 122, Employment Policy Convention, 1964

With respect to the number of Conventions and Recommendations that are earmarked for ratification by November 2012, the process leading to ratification as highlighted earlier should be noted. I wish to indicate that the tripartite consultative mechanism should be allowed to work to determine which Conventions should be considered for ratification, as such a decision is not solely made by the Government.

However, the following Conventions and Recommendations are on the agenda of the ILO 144 Tripartite Committee for consideration of ratification:

No. of Instruments	Name of Instruments
Convention No. 158	Termination of Employment Convention, 1982
Convention No. 121 Recommendation No. 121	Employment Injury Benefits Convention, 1964 Employment Injury Benefits Recommendation, 1964
Convention No. 94 Recommendation No. 84	Labour Clauses (Public Contracts) Convention, 1949 Labour Clauses (Public Contracts) Recommendation, 1949
Convention No. 95 Recommendation No. 85	Protection of Wages Convention, 1949 Protection of Wages Recommendation, 1949
Convention No. 129 Recommendation No. 133	Inspection in Agriculture Convention, 1969 Inspection in Agriculture Recommendation, 1969
Convention No. 184 Recommendation No. 192	Safety and Health in Agriculture Convention, 2001 Safety and Health in Agriculture Recommendation, 2001

Convention No. 174	Prevention of Major Industrial Accidents Convention, 1993
Recommendation No. 181	Prevention of Major Industrial Accidents Convention, 1993
Convention No. 170	Chemicals Convention, 1990
Recommendation No. 177	Chemicals Recommendation, 1990
Recommendation No. 189	Job Creation in Small and Medium-sized Enterprises Recommendation, 1998
Convention No. 130	Medical Care and Sickness Benefits Convention, 1969
Recommendation No. 134	Medical Care and Sickness Benefits Recommendation, 1969
Convention No. 157	Maintenance of Social Security Rights Convention, 1982
Recommendation No. 167	Maintenance of Social Security Rights Recommendation, 1983
Convention No. 102	Social Security (Minimum Standards) Convention, 1952
Convention No. 118	Equality of Treatment (Social Security) Convention, 1962
Convention No. 156	Workers with Family Responsibilities Convention, 1981
Recommendation No. 165	Workers with Family Responsibilities Recommendation 1981

Of the Conventions and Recommendations earmarked for consideration by the Committee, the following have been listed as instruments of high priority to be examined:

- Recommendation No. 189, Job Creation in Small and Medium sized Enterprises Recommendation, 1998;

- Convention No. 129 – Labour Inspection (Agriculture) Convention, 1969;
- Recommendation No. 133–Labour Inspection (Agriculture) Recommendation, 1969; and
- Maritime Labour Convention, 2006.

Mr. Vice-President, let me reiterate the commitment of the Government of the Republic of Trinidad and Tobago towards the achievement of decent work for all. The ratification and implementation of ILO Conventions are seen as critical to the pursuit of decent work in Trinidad and Tobago.

Sen. Mark: Mr. Vice-President, I do not know if my hon. colleague would be in a position to say, but the conventions that were ratified since January 01, 2007 as identified by your good self, could you tell this honourable Senate whether those conventions would be tabled in this honourable Parliament and whether they have been translated into national law as is needed procedurally?

Sen. The Hon. C. Enill: Mr. Vice-President, I do not have the answer to that question, through you to Sen. Mark, but I would certainly have an answer available to him on the next occasion.

Municipal Corporations Act (Government's Intention to Amend)

87. Sen. Gail Merhair asked the hon. Minister of Local Government:

Could the Minister state whether it is the intention of the Government to amend the Municipal Corporations Act in order to extend the life of the current term of regional corporations when their term expires?

The Minister of Local Government (Sen. The Hon. Hazel Manning): Mr. Vice-President, the answer is not yet ready; maybe in the next two weeks.

Question, by leave, deferred.

Agricultural Leases (Details of)

88. Sen. Gail Merhair asked the hon. Minister of Agriculture, Land and Marine Resources:

Could the Minister inform the Senate how many standard agricultural leases have been granted to farmers on State lands during the period January 01, 2007 to March 31, 2009?

The Minister of Agriculture, Land and Marine Resources (Sen. The Hon. Arnold Piggott): Mr. Vice-President, the response to this question is not yet ready. It would take some time to compile the information.

Question, by leave, deferred.

**Economic Partnership Agreement
(Status Report of)**

90. Sen. Gail Mehair asked the hon. Minister of Trade and Industry:

With respect to the Economic Partnership Agreement (EPA) signed on October 15, 2008, could the Minister provide the Senate with a status report on the implementation process as at March 31, 2009?

The Minister of Trade and Industry and Minister in the Ministry of Finance (Sen. The Hon. Mariano Browne): Mr. Vice-President, the answer to this question is not yet ready and I would ask for a deferment of two weeks.

Question, by leave, deferred.

**Secondary Schools Computers
(Internet Access to)**

94. Sen. Dr. Adesh Nanan asked the hon. Minister of Education:

- A. Could the Minister state whether all secondary schools have computer labs with twenty (20) computers or more with Internet access?
- B. If the answer to (a) is in the negative, could the Minister inform the Senate of the reasons for the delay?

The Minister of Education (Hon. Esther Le Gendre): Mr. Vice-President, with respect to part A of the question, out of a total of 133 public and government-assisted secondary schools, there are 120 secondary schools in Trinidad and Tobago with computer labs and Internet access. In addition to the outfitting of the computer labs in all secondary schools, computers have been installed in the libraries, staff rooms and administrative areas. These schools were given the following equipment:

In terms of their location, in the laboratories, 22 devices; the type of equipment given would have been desktop PCs or laptops, depending on the type classification; network printers and connectivity wired as well as wireless.

In libraries, they were given ten devices consisting of desktop PCs for students; desktop PCs for administration and network printers with wired connectivity.

In terms of the staff rooms, they were given nine devices consisting of desktop PCs; network printers and network colour printers; wireless connectivity. In the administrative area they were given two devices; desktop PCs; network printer; wireless connectivity; servers, laptops, six devices: servers; semi-rugged laptops; wireless.

The secondary schools were asked to choose from among three types of network configuration for their computer labs: Type A; the connectivity of the desktop PCs in the computer lab were wired; type B, the connectivity of the desktop PCs in the computer lab are wireless; or type C, the connectivity of the labs are wireless.

Twenty-five secondary schools selected type A, 50 selected type B and 53 selected type C.

2.00 p.m.

There are eight secondary schools with computer labs, but no Internet access. This is due to the fact that Trinidad and Tobago Telecommunications Services (TSTT) does not have connectivity in these remote areas. It is expected that these schools will have Internet access by September 2009.

There are five secondary schools without computer labs. Of the five schools, four require an electrical upgrade in order for these labs to become operational. A programme of electrical upgrades to remaining secondary schools is under way.

Sen. Dr. Nanan: Could the Minister of Education tell the Senate whether the IDB loan for the computerization of secondary schools has been fully utilized? I heard numbers but I am not sure if all the schools have computers in their labs as part of that loan programme.

Hon. E. Le Gendre: Mr. Vice-President, in relation to the answer, I take that as a supplemental and I would be happy to provide it on another occasion. I am unable to speak to whether or not the loan is completely utilized. That is information I do not have.

A' Level Places (Shortage of)

95. Sen. Dr. Adesh Nanan asked the hon. Minister of Education:

- A. Would the Minister advise the Senate whether there is a shortage of A'Level places?

- B. If the answer to (A) is in the affirmative, would the Minister inform the Senate what measures are being put in place to correct this?

The Minister of Education (Hon. Esther Le Gendre): Mr. Vice-President, this question though complete is not yet approved. I will be happy to provide it on the next occasion.

Question, by leave, deferred.

**Secondary Schools
(Vacancies for Mathematics and English Teachers)**

- 96. Sen. Dr. Adesh Nanan** asked the hon. Minister of Education:

Would the Minister indicate to the Senate the number of vacancies for Mathematics and English teachers in secondary schools during the period January 01, 2008 to March 31, 2009?

The Minister of Education (Hon. Esther Le Gendre): Mr. Vice-President, during the period January 01, 2008 to March 31, 2009, there were 60 vacancies for Mathematics teachers of which 45 were filled. During the period January 01, 2008 to March 31, 2009, there were 22 vacancies for English teachers and 20 of these were filled.

**Legalisation of Closed Circuit Television
(Evidence in Court)**

- 125. Sen Gail Merhair** asked the hon. Minister of National Security:

Could the Minister indicate to the Senate when legislation will be brought to Parliament to legalise the use of closed circuit television cameras, as it relates to the admittance of evidence in a court of law?

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Vice-President, hon. Senators are advised that evidence collected from CCTV cameras is admissible in the court of Trinidad and Tobago. This is adequately provided for under the common law as well as through provisions in the Evidence Act, Chap. 7:02. Accordingly, the need to bring additional legislation before Parliament to allow for the admissibility of such evidence does not arise.

As in all matters regarding the admission of evidence, law enforcement must adhere to the most important rule of the law of evidence which is that evidence is only admissible if it is indeed relevant to an issue between the parties. Once it is established by the prosecution that inter alia, the footage is relevant to the issues

that arise in the trial, the CCTV footage has not been altered or changed and the trial judge agrees that the probative value outweighs the prejudicial evidence, then the CCTV footage is admitted as evidence in a matter.

Hon. Senators should note further that there is precedence for the use of such evidence internationally, in accordance with the common law. There is also precedence for use of CCTV evidence within the jurisdiction. A pertinent local example was the murder case of the *State v Daniel Agard and Lester Pitman*. In this regard, CCTV footage taken from the bank's automated teller machine was admitted showing one of the accused using the bank card of one of the murder victims.

The Ministry of National Security is of the view that these CCTV cameras are essential tools in the fight against crime which serves to deter and detect criminal activity within the country. The ministry is actively engaged in expanding the existing network in collaboration with stakeholders including the Ministry of Works and Transport and communities nationwide, to provide more extensive coverage throughout Trinidad and Tobago.

**Association of Caribbean States
(Benefits for this Country)**

126. Sen. Gail Merhair asked the hon. Minister of National Security:

With respect to the Association of Caribbean States (ACS), could the Minister advise the Senate of:

- (1) the benefits this country derives from its membership in the association; and
- (2) the benefits derived by this country by hosting the Secretariat of the ACS?

The Minister of National Security (Sen. The Hon. Martin Joseph): Mr. Vice-President, I do not know if this question is rightly directed. The question asks:

“With respect to the Association of Caribbean States (ACS), could the Minister advise the Senate of:

The benefits this country derives from its membership in the association;...”

The Minister of National Security is not in any position to respond to such a question.

INTEGRITY IN PUBLIC LIFE (AMDT.) BILL

[SECOND DAY]

Order read for resuming adjourned debate on question [12th May, 2009]:

That the Bill be now read a second time.

Question again proposed.

Mr. Vice-President: A list of those who spoke is: Sen. The Hon. Bridgid Annisette-George was the mover of the Bill; Sen. Wade Mark; Sen. Prof. Ramesh Deosaran; Sen. The Hon. Mariano Browne; Sen. Dr. Sharon-Ann Gopaul-Mc Nicol; Sen. Basharat Ali and Sen. Dr. Adesh Nanan.

Sen. Dana Seetahal SC: Mr. Vice-President, having studied the amendment to the Integrity in Public Life Act, I am of the opinion that it seriously waters down the entire legislation, to the effect that one of the significant purposes of this Act will be depleted or if not, totally lost. That is because of the planned provisions to replace Part V of the current Act. Before I go there, I need to point out—and I understand that it was pointed out already when I was not here—that this amendment fails to deal with the whole issue that arose about three years ago as to whether judges, magistrates and others should declare under the Act.

If one is bringing significant amendments to the Act, one would have expected the Government to take note of the words of Justice Judith Jones in the matter of the construction of the Schedule to the Integrity in Public Life Act and the interpretation of the Integrity in Public Life Act. As you may have heard, that judge said at para 221:

“I am of the view therefore, that having regard to the provisions of the Constitution of the Republic of Trinidad and Tobago and the Integrity in Public Life Act, judges and magistrates are not subject to the provisions of the Integrity in Public Life Act as amended.”

This judgment which was given in October 2007, was never appealed. The Attorney General at the time was a defendant in the matter and would never appeal this judgment. There were various parties including the Law Revision Commission, judges and magistrates, the UNC Opposition, Flour Mills, TSTT, the Board of Film Censors and the Law Reform Commission who were heard on this matter. The judgment ensued from that. There was no appeal from the judgment so it stands. I will like to find out from the Government—there might be some good reason which escapes me—why there has been no direct amendment. One could argue that there is a judgment, but it is a first instance judgment. One would expect that in cleaning up the legislation, there ought to have been an amendment.

Learned judge—sorry, Mr. Vice-President. I am sorry, Mr. Vice-President, I was elsewhere attending a meeting and I erred in that area. In that judgment at paragraph 28, the learned judge quoted a statement made by the then Attorney General in 2005. I recall that particular statement that he made. He said:

“In my capacity as Attorney General, I have advised the Cabinet that the relevant provisions are in fact unconstitutional and that the Constitution properly intended that only the Judicial and Legal Service Commission would have oversight over judicial offices. Mr. Speaker, in these circumstances it would be irresponsible of the Government to ignore fundamental constitutional principles and to allow the law to stand as it is currently drafted.”

Sen. Annisette-George: Thank you, Mr. Vice-President and Sen. Dana Seetahal. To clear that aspect that the hon. Senator referred to and it has come up in the course of the debate in the other place, about January 2008 when a statement was made concerning the Integrity in Public Life Act. The Government indicated then, that the Act was going to be reviewed both looking at the complaints mechanism and with respect to the persons caught under the Act. That was over a year ago. One of the reasons it took so long for this piece of legislation to come to Parliament is that the Government had prepared a Bill which sought to take out judges, magistrates and certain of the statutory boards.

Having regard to the provisions of section 138 of the Constitution, one also needed a Constitution (Amdt.) Bill. When overtures were made to the Opposition, if my recollection serves me well—this was also reported in the press—copies of this Bill were given to the Opposition and they indicated that there will be no support for the Bill seeking to take out the judges, magistrates and members of the boards of the statutory bodies and state enterprises. It would have caught those persons that the hon. Senator referred to as the Amateur Boxing Board, et cetera. That is why the legislation presented here deals only with the complaints mechanism. It is not that the Government is not minded of the effect of the judgment. That requires a special majority, the same special majority that Sen. Mark likes to speak about under section 54 of the Constitution. The Opposition indicated that it would not support the Bill and because of that, this other Bill has come.

Sen. D. Seetahal SC: If I may say, I have not seen that Bill so I am unaware. I do not know about the ramifications involving the Government and the Opposition. If there were such, as the Attorney General has indicated, I am not aware. I am not denying that there was; I am saying that I am unaware. I am

indicating that I have no knowledge of it. Therefore, I am making my point on the basis of that ignorance that the last part of the judgment of the learned judge said that Parliament may wish to consider whether the intention of Parliament was in fact to include members of boards and judges and magistrates.

2.15 p.m.

I reiterate that it may well be that the Opposition may have given certain indication. I do not know. I have not been told specifically of any intention in the past to do it. There are various entrenchment provisions. Maybe that entrenchment requires a three-quarters majority, I have not heard which it is. There are different ones. It may be that the Government should put the amendment before Parliament. Lay it and let it be defeated if it has to be and then we will know what is what. That is what I would have preferred. You would have understood clearly what was keeping this Senate and the other place from acting in accordance with the law, as given in the judgment of October 2007. That is my position.

My second point, I have three areas, is really in relation to all of the proposed amendments prior to that which seeks to amend or at least repeal and replace Part v. Really and truly, I do not see the significance of several of these amendments.

In particular, I draw attention to clause 4, which demands that the President terminate the appointment of a member of the Commission in certain circumstances, which has arguably existed under the previous legislation at section 8(2). The difference is that it now states that the President “must” terminate. Previously, the President had a discretion, acting in his own deliberate judgment. The only difference in the law is to demand that the President “must” act. Is it then that the Parliament is saying that we do not trust the President to act when he should? Is it that we are saying that the President is likely not to terminate appointments of persons who might be infirm in mind or body or might have been guilty of misbehaviour? That is what I am gathering from the proposed amendment, because the proposed amendment requires the President to terminate the appointment. There is an irony about it.

The President, under the current law, has the sole discretion. After consultation, he does not have to listen to it. He could listen but does not have to pay heed to the consultation, to appoint persons in his sole discretion. What we want to do is change the law, what may appear to be slightly, but it is still a significant thing, to demand that he terminate appointments. Even though he can appoint whoever he wants, under any of these, (a) to (h), you must, you have no choice or no discretion, terminate the appointment if somebody:

“(b) becomes bankrupt...

(d) is guilty of misconduct in relation to his duties;”

whatever that means.

“(e) misbehaves in office;

(f) is absent from three or more consecutive meetings without approval...”

That sounds a little harsh to me.

“(h) is incapable...of performing...”

A lot of parliamentarians here might possibly fall under that, if we extended it in its natural way. [*Cellphone rings*] I apologize for the other matter. That is one point. I think we need to consider whether or not we want to give that— [*Interruption*]

Sen. Annisette-George: As far as the amendment that the hon. Senator is referring to, it may have been because you were absent with leave last week. The proposed section, Sen. Seetahal SC, through you, Mr. Vice-President, is section 8(2)(f), which may be listed in your copy. That amendment was done in the other place. It no longer reads “is absent from...” In the parent Act, where the reference is to subsection (1)(b), there is a provision for a vacancy to occur where there is an absence without leave. That is usual in many bodies as constituted.

Sen. D. Seetahal SC: I do appreciate that in the current law a vacancy would occur if there is the absence of a member from three consecutive meetings, unless that absence is approved by the President after consultation with the chairman. I am talking about the President being bound to terminate the appointment. I am merely pointing out that in my view that was a little harsh. My essential point is not that. For all of these matters, these several eight matters, the President is bound to terminate, whereas before he had discretion. In fact, on the one hand, he acts on his own discretion and on the other hand, we in Parliament would be telling him: You must act. I think that is highly ironic; present circumstances apart.

Another point I wish to make is that under the current law, a person must declare every asset or liability. Under the proposed law, if it is \$10,000 or less, just like the drug legislation, you need not declare. A lot of people can have gifts or sums of money or loans, \$9,999, and that could represent maybe a gift or fiat reward. Knowing that this law exists or if it is passed, persons who wish to give people in public life—we are not saying that people in public are all inclined to

receive, or even a few or any, but there is that possibility—to avoid the law, you give \$9,999. You go \$1 below the amount that you have to declare. I think there is a danger in that. That is still not as significant as Part V, which we will come to.

I would like to find out from the Government, what is the purpose of amending section 21? Section 21, as it currently stands, permits prosecution of persons in public life for up to five years after they have left public life. The current amendment makes no changes except that it replaces the word “of” with “for” and it replaces the word “may” with “shall” and the effect is the same. In any event, for every prosecution there is discretion. I really think that is not even cosmetic. What is the point of amending? In fact, it is a whole section that is repealed and replaced with two words changed and the words have no significance, legally or otherwise.

I move on to Part V, which I understand in my absence has been the source of many, many comments, not only in this Chamber but out there in the wider world. Before I move on to the specific provisions, I want to point out that under the current law existing at common law and statute in this country, persons who are informers, who give information to the police, which allow the police to investigate and subsequently charge for crimes, are protected. Under the Drugs Act, there is provision that no witness in any proceedings shall be obliged to disclose the name and address of any informer who has given information with respect to any matter under this Act. It also states that no witness shall answer any question which will tend to lead to the identity of such a person. Persons who give the police information that can lead to the arrest of a drug trafficker, they are protected. There is a good reason for that. Obviously, their lives may be in danger.

Right now persons who give the police information in respect of murders, you cannot let their names be known until the last possible moment. That is why we have witness protection in this country. We did not always have witness protection. It was only 12 years ago, witness protection came into effect in any significant way. That is because witnesses were not only threatened, had their families harassed and lost their jobs, but they were killed too. That is the ultimate. You also want to protect the integrity of the evidence. That is why we have witness protection. This is the way the world is going. We have witness anonymity in many jurisdictions. The names of the witnesses are not even disclosed. They can give evidence behind a screen in certain cases, because of the nature of the evidence and the seriousness of the offence and because of the desire of the authorities to bring those who commit serious crimes to justice.

What are we doing with these proposals under Part V, the proposals to replace the current Part V with this? We are going backwards. We are saying in effect that persons who are only being investigated would know their accuser and would know what the accuser has said. It is not the accuser in court, but someone who makes a complaint to the Integrity Commission, which seems to have a lot of powers of investigation, but we do not know the extent of the staff that they have. You make a complaint. How do you make the complaint? You make it in the form of a statutory declaration. The only witnesses who make complaints in the form of a statutory declaration in this country, so far, are witnesses who are accomplices who have admitted that they have usually committed murder; they were part and parcel. They give their evidence in a statutory declaration, so they can be called upon to give that evidence afterwards and they must keep their evidence in accordance with their statutory declaration.

If you are someone who knows of a corrupt activity going on in a government organization or a state-run company and you probably are the beneficiary, in a way, of contracts and you are told if you do not give 10 per cent of the value of the contract, you would not get it and you have that information and you would like someone to deal with it, or something even less serious, but in any case amounts to corruption at some level, according to this proposal, if you go to the Integrity Commission you must submit a complaint in writing duly sworn as a statutory declaration. That is the first thing. An ordinary citizen, knowing this, will be deterred. He will not want to go before a Justice of the Peace and swear to an oath in that serious manner, because he does not know what is going to happen to him and he does not know who is going to disclose. He would have hoped that his complaint would have been kept confidential in the Integrity Commission. Now, the proposal is to have it broadcast loud and clear.

You first make a declaration. Do you know what the penalty for any breach of that is? Under the Perjury Act, the penalty is seven years imprisonment, maximum. It is just like regular perjury. A person who swears to a statutory declaration being required or authorized by law to make any statement on oath and being lawfully sworn, wilfully makes a statement which is material for that purpose and which he knows to be false or does not believe to be true is liable on conviction or indictment to a fine and imprisonment for seven years.

2.30 p.m.

Mr. Vice-President, if it is that you make a complaint, even if you went through the trouble of swearing to a statutory declaration and for some reason it is found—let us say whatever witnesses you had disappeared, because now the

person against whom you have made that declaration could get rid of everything—clearly, you could threaten witnesses and get rid of the documents and so on—then it shows that there is nothing, because you do not have the evidence. Your chances of being charged—it will be put to you that you did not know that this was true or you did not believe it or in fact you lied. How will you prove it? The onus might not be on you to prove it but, at least, you will need to have some evidence to show that you did not do any such thing. That is the first deterrent. I can tell you that many citizens in this country who would blow the whistle and seek to have a complaint investigated by the commission would now refrain from doing so if this legislation is passed.

It is still against the whole tenor of what is happening in the Ministry of National Security. We are talking 555, Crime Stoppers and TIPS and all of these things, and you can get money for it. If you make a complaint on a tip and people are charged subsequently—unfortunately, I do not know what is the amount of money, because many of us could probably give information—but the fact of the matter is your identity is protected and you do not have to give your name. This is not even to the police, and this is the irony of it. This is for the Integrity Commission and after the investigation it will go to the police. So, you are at a preliminary stage, and you can be charged. That is the first point that I wish to make in terms of the statutory declaration.

Mr. Vice-President, according to this Bill, you also ought to make available documents, materials and matters of that kind. Under the current law, in relation to witnesses, it is provided that materials relating to the identity or activities of informants or undercover police officers or witnesses or other persons supplying information to the police, who may be in danger, if their identities are revealed, are protected from disclosure. The law, as it exists, protects from disclosure material, including their names, but also material that they have given like their statements, address and so on from disclosure. This is in a court after being charged. You do not even disclose these things, because peoples' lives may be endangered, because their families may be threatened.

So, after there has been a charge, you would go to court and the defence applies for material, the statement and the prosecution can invoke public interest immunity, and claim that. If they claim it validly before the court—they would not argue it in public—usually, the court will uphold it, that this is an informant, and this person could be intimidated. He may reside in the middle of some area where there are several killings going on and threats can be made and, therefore,

his statement will not be disclosed. The material he has given would not be disclosed. In fact, he might very well benefit from witness protection. That is public interest immunity which currently exists under the law.

What does the proposed Part V say? You must not only submit the complaint in writing and swear to it, but you must state the particulars of the alleged breach or act of corruption supported by documentary evidence and sworn statements. So, you have to go out there and get witnesses who will be prepared to give sworn statements as well. How ridiculous is that! [*Desk thumping*] You are not even dealing with a complaint to the police. You are going to a commission that is supposed to act as a kind of intermediary body in sifting out serious allegations of corruption and others, and you have to go and make a sworn declaration yourself and subject yourself to seven years imprisonment. You have to get witnesses who will also swear and supporting evidence. So, you are acting like a mini police officer yourself, and policing yourself before you even come to the commission. That is ridiculous.

In my opinion, any reasonable person who would like to protect the integrity or ensure the integrity of people in public life who are susceptible to being offered bribes—some of them may be weak and accept them—or gifts or fees or whatever you want to call them. If we are intending to ensure that integrity, and give the citizenry the assurance that persons in public life have integrity, then why are we doing everything—it seems to me under Part V—to make it difficult to identify if someone is corrupt? We are going backwards and we are seeking to penalize the messenger rather than the person who is likely to have committed the crime. [*Desk thumping*]

Mr. Vice-President, I think I have said enough. I have some other things to say, but I really cannot, in conscience, support this Bill. [*Desk thumping*] I have spoken to other lawyers and even lawyers in private practice—apart from state lawyers who do not support it—and they share my view. They have asked me—I was airing my own views, but now I am extending—to air this view. There is by and large the feeling that under the current law, informants are protected. Under the current law, people do not disclose witnesses who might be liable to be intimidated or who might be threatened even in court when there is a charge.

The Integrity in Public Life Act is supposed to perform a certain function or ensure something, and that something being integrity of parliamentarians by virtue of what it does, and what we are doing is entirely a retrograde step in

seeking to have all of this disclosure before we even have a charge. That means that you have put an end to any proper investigation at the outset, and that would be the end of any validity behind this Bill. That is my position.

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

Sen. Lyndira Oudit: Mr. Vice-President, thank you very much. I think the time has come when, as a nation, we have to engender a culture of sustained and collective disgust and repulsion for all behaviour that is below ethical standards, that we not only expect but pay for, by all persons in public life and all institutions dealing in the public interest. It has become necessary for us to insist that persons, government institutions, ministries, boards, public utilities and all agencies adhere to the strictest measure of ethical standards, not only possible, but critically important and necessary for the recovery and preservation of some semblance of public integrity and sound governance in this country.

Former British Deputy Prime Minister and Foreign Secretary, Mr. Geoffrey Howe, identified a very simple self-questioning that officers in the public service should use. He asked the question: “Would you feel happy to see all of the relevant facts of any transaction or relationship fully and fairly reported on the front page of your favourite newspaper?” I believe at this time in this country we need to ask three additional simple questions: Is it good for the greater good of the majority of people in this country? Is it necessary more than any other at this time? Would this action or decision positively sustain public scrutiny now and in the future or would it reveal innate wrongs? It is my belief that as a people we have, in fact, begun to collectively air such public disgust against wrongdoings.

On May 12, 2009, in the *Guardian* it was reported that Trinidad and Tobago Transparency Institute Chairman, Mr. Victor Hart said:

“...the Bill represents a retrograde step which will increase the likelihood of corruption in the country...and would have far-reaching implications for the effective dispensation of justice.”

Mr. Vice-President, two former Independent Senators and a retired diplomat, Julian Kenny, John Spence and Reginald Dumas joined this call and stated that this Bill will drastically weaken the powers of the Act and could make it ineffectual and irrelevant to the needs of the country. They called on the Government to withdraw the Bill. They said that if that was not done, then “we”, as a group, “urge all Independent Senators as well as the Opposition Senators to vote against the Bill”. [*Desk thumping*]

Even more telling is the echo of this cry from none other than within the heart of the PNM, and I call on no one else except the Tobago House of Assembly Chief Secretary, Mr. Orville London as quoted on Friday, May 15, 2009. He said that the Government's move to amend the Integrity in Public Life Act is ill-timed. He recommended that this Bill be put on hold. He said:

“I am not so certain that we have the kind of mindset among the major players that would allow for the kind of sober evaluation and decision making that is required...it is not only that we have to create confidence in the institutions, but we also have to increase the level of confidence in the people who are supposed to man these institutions...people of true integrity would no longer be prepared to come forward...”

That is within the ranks of the PNM. There are those on the Government side who are seeing the dangers; the dangers that are unfolding very slowly and they are joining in this warning cry against the potential loss of freedoms, rights and privileges accorded to the people, the threat of which will be taken away by this legislation today. We must guard carefully those rights that are enshrined and understood. If it is taken away from me, certainly, it will be taken away from you.

The Most Rev. Desmond Tutu, the Anglican Archbishop, identifies the concept of “ubuntu” in African philosophy which acknowledges the essence of what it is to be human. In his words he said, “If I diminish you, I diminish myself”. He went on to explain that this principle points out that those who seek to destroy and dehumanize are also victims—of a pervading ethos, in particular, political ideology or other and, consequently, they are as much dehumanized as those on whom they trample.

Similarly, in a struggle to free India from under the oppressive British rule, Mohandas Gandhi promoted a similar notion and his call was “an injury to one is an injury to all”. You cannot take away the rights of one, possibly those in Opposition, and feel that you have not also taken the rights of yourself. The wheels of the circle go full circle. What you allow today and what you support today, if it is oppressive to the freedoms and privileges of others, that would be that much heavier a burden for you to bear when the time comes for you to face that music.

Let us direct a thought for a minute on the meaning of the word “integrity”. I take it from Law Professor Stephen Carter in his text *Integrity* published in 1996. He identifies that integrity incorporates three basic aspects: discerning what is right and what is wrong; acting on what you have discerned; and saying openly that you are so acting on your understanding of what is right from wrong.

2.45 p.m.

Such a fundamental concept ought not to be so challenging to determine and uphold, yet in this country, the issues that bombard us daily force us so frequently to infer that this quality is in fact, sadly lacking in the utterances and activities of those we entrust with the public life.

At the outset, I feel at this time I need to ask a question: Is it possible that we need to change the name of this legislation? Would it make it easier to assess whether integrity exists or not? I would like to suggest at this time that we change the name to the "Prevention of Corruption in Public Life Act". Since the original Act, the Integrity in Public Life Act was passed in 2000, while it did in fact, provide for the establishment of an integrity commission as laid out in the rationale, it has unfortunately failed to bring into fruition the other tenets of rationale and objectives: it has failed to make provisions for the prevention of corruption; it has failed to regulate the conduct of persons in public life; and it has failed to preserve and promote integrity of public officials.

Far from realizing these goals, it seems as if the Act of 2000 was used to pave the way towards a new opening of channels for wrongdoing and misconduct. The very ills that this very ambitious legislation sought to remove from within the public have, since 2000, been plaguing and tormenting citizens at all levels and within all institutions. The reason is very simple; it is harder by far to prove a lack of integrity, which is a very subjective undertaking, than it is to determine the occurrence of a corrupt act, which is measurable; it is measured against the clear set of standards and procedural guidance, and so it is more objective, and that is why I call possibly for the renaming of the Act.

In fact, in light of events over the last 12 months alone, with respect to the alleged misconduct of a Minister in the CL affair, the exposure of alleged scandal in the UDeCott enquiry, and the latest and possibly most incriminating, the fiasco surrounding the appointments and resignations of the members of the very Integrity Commission through which this Act gives life, serious consideration must be given as to how as a country we move forward rather than continuing on this regressive path of this current administration. We are certainly at a time of major introspection, and I hope possible exorcism of this evil which has gripped our land, and manifested itself in high and supposedly moral places in this country.

In the *New York Times* on April 07, 2009, Jonathan Haidt says:

“...moral reasoning is really just a servant masquerading as a high priest.”

It seems to me that we are a country of masqueraders.

Interestingly, on May 17, 2009, the *Express* reported:

"Former president Arthur NR Robinson...said he believed that the whole issue of integrity at all levels was an issue for this country.

...he believed that integrity was hard to find and 'I am afraid it (the lack of integrity) has become part of our culture'. He said strong leadership was needed to address this matter."

It seems fitting that this lament of our former President should come smack on the heels of what is now being called a constitutional crisis and the crisis of confidence in the very office over which he once presided. In fact, lest we forget, it was the former President of the Republic himself who ushered in this era of governance when he proclaimed publicly, a decision based on moral and spiritual grounds, despite popular advice, and publicly expressed views of a number of other legal minds in the country which may have expected otherwise constitutionally. To his credit, the *Express* reports that comment was:

"...the issue of integrity has been a matter of concern to him for some time."

A report of the Committee of the Standards in Public Life established in 1994 by the then British Prime Minister, John Major, under the chairmanship of Lord Nolan—and the hon. Attorney General referred to a few of these in her presentation—regarded the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. It must be noted, that integrity is simply one aspect of public life.

So, by focusing on integrity alone, the name of this Act, the other indicators of good public life are ignored in the Act, and oftentimes are the very factors that are used in the public by those who choose, not only to recognize the limitation of the law, but to recognize how far they can go under the ambit of this law.

Further, it would be safe to say, I believe that almost all public matters that are surrounding allegations of corruption and wrongdoing at this time, in this country, call into question the very principles that are left out in the name of this Act. So, as a country, today we are faced with a lack of selflessness, the absence of objectivity, zero accountability, avoidance of openness, distinct dishonesty and a thorough lack of leadership.

Mr. Vice-President, the essence of the rationale of the Integrity in Public Life Act of 2000, sought to bring to the public domain concepts such as responsibility, answerability, enforcement, liability and accountability. It sought to acknowledge the public person's responsibility for action.

Integrity In Public Life (Amdt.) Bill
[SEN. OUDIT]

Tuesday, May 19, 2009

So, we have come here today, Mr. Vice-President, in May 2009 to make amendments to the original Act. I believe that this Bill seeks, not only to undermine the authority, responsibility and the ability of the constitutionally formed Integrity Commission, but it feverishly seeks to prevent persons from undertaking civic duty to act with integrity to prevent, if possible, the action of corruption of dishonourable or improper behaviour in public.

This amending Bill before this Senate, in a very hurried and stealthy manner, seeks to enforce 17 amendments to the existing legislation. The only rationale given for this hurried amending Bill so far is to deal with what Trinidadians refer to as "macoing", and public shock and disgust reared its head quickly on this matter.

In the *Sunday Express*, May 17, Marlon Miller gave vent—with a few choice words—to his opinion of this publicly stated need for this particular legislation and I quote:

"Imagine an unelected Government Senator, who also happens to be a Minister, stands up in the Red House and tells us he doesn't want anybody maccoing his business, or that of his fellow Cabinet Members, hence the reason for the proposed amendments...

Mr. Minister, should I remind you that all of us voiceless taxpayers who are helping to pay your salary have a right to macco anything you do, once it's outside the bedroom. [*Desk thumping*]

You, Mr. Minister, should be ashamed of trying to take that privilege away from us."

This is the culture of disgust that I am referring to. We are no longer willing to accept such an outrage, wrongdoing, or such blatant cover-ups. The people now have a voice and they are no longer willing to remain quiet on these issues.

Clause 3 of this amendment seeks to amend section 5 which it states will now allow for the commission to receive and investigate complaints.

Sen. Lezama: Mr. Vice-President, Standing Order 32(6):

"Except with the leave of the President a Senator shall not read his speech..."

I think we have been listening to a prepared speech for the past while.

Mr. Vice-President: Senator, it appears that you are reading from a prepared text. [*Interruption*] Sen. Mark! Could you please refrain from reading a direct text; you can refer to notes if you have them, but it appears that you are reading from a prepared text.

Sen. Mark: Do like Hazel—same thing.

Mr. Vice-President: Sen. Mark, today is a new day and so far, things are going very nice.

Sen. L. Oudit: I will be so guided. Thank you, Sen. Lezama. I will recall that piece of Standing Order in the future.

Sen. Mark: Remember that Standing Order.

Sen. L. Oudit: I will. I will certainly remember that.

Mr. Vice-President, it would seem to me that under the amendment of section 5, now you have here basic grammatical inaccuracies, and I would like to point it out. I am referring here to the parent Act. The phrase says:

"(e)...any alleged breaches of this Act or the commission or any suspected offence under the Prevention of Corruption Act;"

The amendment now, Sir, seeks to have replacement of this, and the amendment will now read:

"...alleged breaches of this Act or the alleged commission of any offence;"

Not only is this changing the essence of what it means but it is grammatically incorrect, and I would like to explain how.

In the first instance, the alleged breaches of the Act or commission or any suspected offence under the Prevention of Corruption Act is referring to the commission as a proper noun. This is the Integrity Commission you are referring to; it is not a verb, but by changing it to say: "alleged breaches of the Act or alleged commission of any offence", you have now replaced a proper noun with a verb.

I would like, for the record, to quote the *Oxford Dictionary*. The word "commission", a noun, which means instruction or a command, a sum paid to an agent, a warrant conferring military rank or an order to authorize production, and this comes from the Latin word *commissio*. The word "commit" however, is a verb. It means to perpetrate or carry out; pledge or bind to a cause or use; to send to prison or hospital; to refer to a committee, and it comes from the Latin word *committere*, which means to join.

Mr. Vice-President, I wish to indicate that I feel a little more research and a little more review of this amending Bill before this Senate would have saved us agony, than having to read an amending Bill that is so flawed grammatically and with so much inconsistency. It should have really had more time to deal with these things.

With reference to this grammatical error, I believe any Standard IV child in a primary school would have noted the difference between a noun and a verb.

Clause 4 seeks to replace section 8(2) by detailing grounds for termination and it says here in the original wording:

“...whether arising from infirmity of mind or body of any other cause...”

is more than sufficient.

3.00 p.m.

Mr. Vice-President, by choosing now to identify specific grounds for termination, you are in fact tying the legs not only of the Commission, but of the President. You are tying the legs down so that the only grounds for termination will reflect only those that you have specifically mentioned. But if you had left the original wording "whether arising from infirmity of mind or body or any other cause", any other cause is sufficient wording so that even though you may have one of those in your findings, it is certainly by no means the need to actually narrow the parameters which the authority of the President and the Commission now has. [*Interruption*]

Sen. Annisette-George: It is not—[*Inaudible*]

Sen. L. Oudit: Well, English from my understanding has to be used while preparing law language.

Clause 5—[*Interruption*]

Sen. Dr. Saith: [*Inaudible*]

Sen. L. Oudit: Mr. Vice-President, I should probably send some English students to the law class—is seeking to amend section 9(6) of the Act which substitutes the words "public officer", for the words "officer in the Public Service".

Mr. Vice-President, this is quite interesting, again, maybe not in the legal way, but in the grammatical and vocabulary. This is an Act of public life. This is not about an Act of a person who is merely in public service. The Act addresses public officers even within their domain of private life. So for example, a public officer—and I would like to draw the example here, possibly a high ranking public officer—who has shares in a private institution, insurance for example, and

who does not indicate such shares in their statutory declaration, in the eyes of the public such a public officer is not acting in the public interest, and furthermore, brings to the public domain questions of selflessness, accountability, openness, integrity or the lack thereof.

Sen. Annisette-George: Would the Senator give way?

Sen. L. Oudit: No, thank you. By this amendment, the purview of investigation would be only in the public service.

Sen. Dr. Saith: Who write that for you?

Sen. Annisette-George: Look at section 9 first and see what—[*Inaudible*]

Sen. L. Oudit: By this amendment, Mr. Vice-President, if you leave this clause, then the amendment entitles individuals to be investigated only as in the public service.

Sen. Dr. Saith: Permission to leave the class?

Sen. L. Oudit: This seems to be rather devious as an action. As most individuals not only here, but outside, while they may be public officers, their transactions, investments and assets are all held in private institutions. So by changing the words "officer in the Public Service", you are referring to the public service as a means of employment. The public service is an employer. Rather than saying a "public officer", you are changing the explanation and the reasoning of what is considered to be in the public service. By limiting this realm of accountability to only the public service as a single employer, we are in fact making the Commission a toothless bulldog because it is then unable to investigate matters of public officers that are from within private institutions, including banks, insurance companies, real estate agencies and other investment agencies.

I do not believe by any measure that this is the intention of the administration that claims to be so committed to accountability. I believe the administration is more honourable than this, but I am reminded of very famous words that the founder of the very PNM administration in deciding who is to be favoured and who is not to be favoured, especially in the public service. He said this:

"When I say come, they cometh and when I say go, they goeth."

This is taken from *Eric Williams, The Man, His Ideas and His Politics* by Prof. Ramesh Deosaran, 1981.

Even more so, this twisting of the words remind me of what Sir Winston Churchill spoke about in referring to what we do as convoluted language. He calls it "terminological inexactitudes". Some may say it is a lie, some may say it is a half-truth, some may say it is an untruth. Mr. Vice-President, in this case, a public officer is not one and the same, as an officer in the public service.

Clause 10 of this amendment Bill seeks to repeal subsection (5) of section 21. I believe Sen. Seetahal SC already pointed this out, but the exact wording is not only in the amendment, it is in the original parent Act. So I believe this clause is therefore unnecessary and nullifies itself.

While several Senators spoke of clause 12, I feel that it is so critical in this debate that we really ought to review it at length. Clause 12 of this amendment Bill is particularly worrisome and raises questions of logic and suspicion. The rationale for repealing the entire Part V is very, very baffling. The current Part V of this Act constitutes sections 32 to 44, 13 full sections with a further 12 subsections and a Schedule of section 2. The amendment Bill seeks to replace this entire Part V with four sections and 17 subsections.

This clause 12 almost single-handedly undermines the power and the authority of the Integrity Commission and in no uncertain terms, invalidates the investigative role and responsibility of any duly constituted tribunal appointed by the President of Trinidad and Tobago, acting on the advice of the Commission and so authorized under sections 15 and 16 of the very Integrity in Public Life Act, 2000. The rationale given here in clause 12 is to enhance the complaints and investigative procedure of the Commission. Not only does clause 12 effectively go on to further nullify clauses 14, 15 and 16 of the very amendment Bill by repealing the entire Part V, but providing amendments only for sections 32 and 34, or sections 32, 33 and 34 as the new Part V. So you have effectively removed—because you previously repealed Part V—sections 36 to 44 and only section 2 is required or included in Part V.

In reviewing the amendment, only section 35 is repealed and substituted through clause 13. So your entire clause 12 does a hatchet job on your entire amendment Bill. By repealing the entire section 5, you have removed from the Bill clauses 14, 15 and 16 which have now become null and void because you have not reinstated the sections that you so wish to amend. This clearly indicates in my mind the haste and excessive urgency of this administration to bring this amendment Bill here

today, even at the cost of infractions of vocabulary, omission, repetition and confusion. It would seem that even at the cost of the law as clearly stated in the Constitution of Trinidad and Tobago, Part II, section 54(3) on page 50, talks about altering. It says here:

"In so far as it alters—

(b) sections...138, 139 or the Second and Third Schedules;

a Bill...shall not be passed by Parliament unless it is supported at the final vote thereon—

(i) in the House of Representatives by,...not less than three-fourths of all members of the House; and

(ii) in the Senate, by...not less than two-thirds of all members of the Senate."

Mr. Vice-President, section 138 of the Constitution establishes the Integrity Commission, while section 139 relates to the power relating to this very Commission. Further, the Third Schedule which you cannot alter unless you go through the three-fifths or the two-thirds, has to refer to matters not subject to investigation. I will direct you to No. 5, which says:

"The commencement or conduct of civil or criminal proceedings before any court in Trinidad and Tobago or before any international court or tribunal."

The law is very clear regardless of position, purpose or power. We ought not to trample on the rights and the laws of this land. This must not be allowed to happen. Certainly, if it is allowed to happen, then it is only a question of time before utter chaos, mayhem and mad dictatorship will follow. This Bill is so frighteningly willing to bypass exacting scrutiny for hasty and lacking legislation, that it calls into serious question, the why. Why did we bring this piece of legislation before this Senate today? What is even more chilling or frightening, is the simple rationale again, given by the Minister. But as Marlon Miller so accurately pointed out in the *Express* and I quote:

"It is our money and when you, Mr. Minister, got you cushy job that didn't mean that you could just spend it willy-nilly without some sort of supervision.

We must be aware of how you're investing it and if a few dollars were missing here and there I hope some macco...is going to blow the whistle."

Full responsibility and accountability for this duct tape legislation must rest squarely on the shoulders of the line Minister and certainly not on the employees under whose name this amendment Bill is brought before the Senate.

I would have hoped that inconsistencies would have been seen before. Sad it is for the Minister in the future to claim lack of understanding of certain terms. If I can use a parallel example, possibly in the financial sector—and we refer to jargon, so I guess the hon. Attorney General is referring to the jargon of the information. In the financial services you have terms, for example, rollover. So it would seem really ironic for example, if a Minister in Finance claims later on, when there are alleged breaches that you do not understand what the word "rollover" means. We cannot have Ministers coming here and not going through the Bill properly, and then claiming you do not know. It calls into question a lot of things, including the lack of integrity.

Under clause 12, section 32(1), we are now including the words "duly sworn as a statutory declaration in the forms specified in Schedule II" and according to Schedule II, such a declaration is not valid unless it is sworn. So the Integrity Commission cannot initiate an investigation without the receipt of a sworn complaint.

It must be remembered and made very clear to the public that the power of the Commission to investigate, derives from Part V, section 33 of the Integrity Act and this remains unchanged in the amendment Bill. So the law is very clear. It says the Commission may on its own initiative or upon the complaint of any member in the public. So the first mandate is upon investigation and its own initiative. Therefore, when matters relating to a public officer come into the public domain, it is the responsibility of the Commission which has a duty to investigate.

3.15 p.m.

Mr. Vice-President, if there was any doubt, this is also clearly outlined in the Constitution, section 138(c) and (d) which gives absolute responsibility to the Commission to supervise and monitor standards of conduct as well as to monitor and investigate the conduct, practice and procedures. So by stating that the Integrity Commission cannot initiate an investigation without the receipt of a sworn complaint directly removes the initiative of the Commission so that it will not be able to act on its own.

In addition, Mr. Vice-President, by constitutionally demanding that a person wanting to do his civic duty which forms the basis—as Sen. Seetahal SC pointed out—as a preliminary investigation. So this person wants to do his civic duty is now prevented, in a manner of speaking, from making such a public disclosure

unless he or she gives the full description of alleged breaches, offences, details of names, places, dates, and amounts of money “supported by documentary evidence and sworn statements” according to your amendment clause 12, section 32(2) and this is a complete contradiction of the very wording of the original parent Act which states:

“An Act to make provisions for the prevention of corruption of persons in public life by providing for public disclosure.”

It takes courage, Mr. Vice-President, to stand up and challenge wrongdoing. Sen. Seetahal SC just spoke about the need for the witness protection programme. We need to protect those persons who feel, or are so moved to speak out against wrongdoing. It may seem safe at some point to remain quiet, but in fact, that evil will eventually show you its own face and then your chances to have done something would have been gone.

Mr. Vice-President, where are we heading in this country? What kind of future are we giving? What legacy are we leaving? Are we leaving a legacy of failed institutions and cowards? Are we giving oppression to our children? As Martin Daly stated in the *Sunday Express* of May 17, 2009:

“We have currently entered a period when the nation is being shamed and dirtied day after day by the output of political wrongdoing and by the unwillingness of citizens, who should know better, to stand up and resist wrongdoing.”

This courage to come forward, Mr. Vice-President, must be protected.

Throughout the world we are referred to whistle-blowing legislation; three anti-corruption international conventions currently exist and offer legal advice and provide legal framework for any nation under its ambit. And so we have the United Nations Convention against Corruption, this was instituted in December, 2005 and includes just one article that I will refer to. It is Article 13 which calls for the anonymous reporting of incidents, while Article 33 specifically deals with measures to protect whistle-blowers.

We also have the OECD Convention which has the whistle-blower legislation as part of its core framework. And the third international agency of which Trinidad and Tobago is part, is the Inter-American Convention against Corruption which was ratified by all OAS members except Barbados and includes aggressive whistle-blowing legislation especially in Article 3 which calls for systems of protecting persons or whistle-blowers including the protection of the identities in accordance with their constitution and the basic principle of legal protection.

Mr. Vice-President, the intention should certainly—in this country or anywhere—not be one where we are making it more difficult for persons to do the right thing. Even the idea of gathering documents or photocopying company records, your job is at stake; you will be fired if you are found out to be doing things like that. Why would this administration want to make it so difficult for persons of integrity to come forward and assist in their bid to have proper practice in public life?

As Victor Hart asks the question in the *Trinidad Guardian* of May 12: Do they have cocoa in the sun? What role then does the President-appointed tribunal have, if not to enquire, request, examine, summon witnesses and to investigate in private?

The amendment is now asking that any “Tom public”, any person, not only do you gather data, copy documents, question others and you have to ensure that their statements are sworn, but you have to examine pay sheets, payrolls, get copies, full documentary evidence even before making a complaint.

Mr. Vice-President, not only do we have conventions that guide nations on how to introduce legislation for whistle-blowers, we actually have in many parts of the world legislation that directs protection of whistle-blowers. I refer to the US Congress which passed the Whistleblower Protection Act of 1989.

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. [*Sen. W. Mark*]

Question put and agreed to.

Sen. L. Oudit: Thank you very much, colleagues. I was referring to legislation that already exists, we do not have to reinvent the wheel. In the US we have the Whistleblower Protection Act of 1989; in Canada you have what is called the Bill C25, the Public Servants Disclosure Protection Act that was passed in 2005; in the United Kingdom there is the Public Interest Disclosure Act that was passed in 1998; in South Africa, there is the Protective Disclosure Act of 2000 and in Australia, we have several pieces of legislation: the Trade Practices Act of 1974, the Public Interest Disclosure Act of 2002 and the Workplace Relations Act of 2004.

Why would this country seek to introduce retrograde legislation when nations throughout the world are trying so hard to stamp out corruption and tainted practice from within their administrations, why are we now going backwards? In

fact, it seems that this administration is hereby seeking to remove protection already afforded to whistle-blowers by our very Constitution. It is outlined in section 139(c) and (d) and deliberately calls on the Commission to make proper provision for the proper custody of declarations and the maintenance of secrecy in respect of all information received by the Commission.

So, Mr. Vice-President, the law is very clear and we are in no place, and we do not have that power at this time to take away those rights. New section 34(1) of this Bill seeks to provide grounds for rejecting a complaint and so you have an indicator “not made in good faith” or “not supported by evidence of probative value”. Yet clause 15 of this same Bill seeks to protect employees of the State if such a person acts:

“...in good faith and on the basis of a reasonable belief...

notified the Commission that his employer...has contravened or is about to contravene this Act;”

Mr. Vice-President, in the first instance, the employer of an employee of the State is none other than the State, so the employer here is the State. How frightening it is to imagine that the State will now be brought before the Integrity Commission and the employee so notifying the Commission:

“...shall not be dismissed, suspended, demoted, disciplined, harassed, denied a benefit or otherwise negatively affected...”—because he acted in good faith.

This is quoted in section 42A.

So on one hand, Mr. Vice-President, the Commission may reject a complaint from a public person if it is deemed to be in bad faith; and on the other hand, a notification to the Commission made by an employee of the State is untouched because he/she is seemed to be acting in good faith.

Mr. Vice-President, at this time it begs the question, who is to determine good faith or bad faith? What measurable indicator is being used to determine which faith is good or bad? Is this term now going to be used for clarification or rhetoric? How are we using this term to guide ethical governance? Are we overriding constituted authority and responsibility? Why is such a highly subjective word being used to inform constitutional practice and enforcement of legislation?

According to Mark Heald of Rutgers University in 1953:

“It is quite possible for a republic to cease to be an effective mechanism for the achievement of democratic doctrines if too much political machinery smothers the voluntary initiative and the responsible participation of interested and politically conscious citizens...it is quite possible to kill the vital spirit of true democracy...”

Mr. Vice-President, clause 12 further identifies under section 34A, the application of the Commission to a High Court against a person failing or refusing to produce documents so required. It further states that should the person refuse to comply with that court order, he is liable to a fine of \$150,000 and imprisonment for three years.

In reviewing this, it initially baffled me why at this point in the legislation the High Court order was needed to get persons to comply by bringing in further documents. In the first case, if the Commission was satisfied that an offence has been committed, then the matter could be referred to the DPP as outlined in section 17.

In sections 21(1) and (2), undisclosed incomes or assets, or deliberately omitted information from a filed declaration can be sent to a court, but there is no information where inadvertent failure or a deliberate refusal of a declarant to the Commission, they had no recourse. They had no recourse if there was something left out, and so by applying to the High Court for an Order, the Commission can now legally force persons to provide additional information or face a fine of \$150,000 and imprisonment for three years, not but, and.

This amendment now assigns power of the Commission to impose a term of imprisonment where before it was authorized to make use of the services or draw upon the expertise of any law enforcement agency of the public service.

Further, the appointed tribunal, according to section 16(1)(b) of the original Act, was directed to the Commissioner of Police and any other officer to make such further enquiries and investigations that it sees necessary.

3.30 p.m.

So the inclusion here directly removes the obligation of the Commission to refer matters of the tribunal to the Police Commissioner or any other law enforcement agency, and what it does is fast-track sentencing, the imprisonment of persons it sees as refusing or failing to provide additional information.

My question here: Will this person so accused have recourse to an appeal? Will that person have access to all official relevant information so used against him? Will protection of a court of law be afforded to this person so imprisoned or sentenced? Who is to be the judge? Who is to be the jury? Is it the Integrity Commission, the tribunal or the President? Where is the principle of separation of powers, as far as the Executive, legislative or judicial concerns? What is the role of the Commissioner of Police to arrest? Where is the role and power of the Judiciary to impose sentencing? We are certainly at a very dark time in our life.

In an interview with Nazma Muller, TTIT chairman Victor Hart questions:

“And people out there are asking, is the Government protecting the big shots who are the ones who tend to engage in white-collar crime, but they don't feel the need to protect the small man...

But what is being proposed as the new dispensation, we're going to see more corruption rather than less.”

No one is safe from the potential abuse of this piece of legislation that was so hurriedly brought before this House. This amendment Bill is vexing, not only in its grammatical inaccuracies and inconsistencies in explanation, but it is vexing in spirit as it underlines an assumption of ignorance and intellectual void. It assumes that we are all fools and that assumption, unfortunately, is one that I will not take or accept.

I refer, in closing, to Sen. Prof. Deosaran's book: *Eric Williams, The Man, His Ideas and His Politics*. And in referring to Dr. Eric Williams, I quote:

“Williams developed a reputation for having around him only those who appeared less intellectually endowed than he was. Those who offered no intellectual challenge but emotional support were drawn in and in fact sheltered by him. That Williams was in power, and in power for so long, merely accentuated this egocentric syndrome of political leadership.”

It appears that even now, the style of leadership is being mimicked and is evident here today in a hasty, suspicious and frantic effort to rob this country of goodness, morality and integrity.

I thank you. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Thank you, Mr. Vice-President, for giving me the opportunity to contribute to the Integrity in Public Life (Amdt.) Bill, 2009. But let me start my contribution at the end and say that if the amendments as

Integrity In Public Life (Amdt.) Bill
[SEN. RAMKHELAWAN]

Tuesday, May 19, 2009

appropriated are passed in this House, rest in peace, Integrity Commission. Rest in peace and you are going to cause me to be expensed, to send you a wreath and a condolence card. [*Desk thumping*]

I speak from the unique position in another incarnation of having been, and honoured to be, and privileged to be, a member of the Integrity Commission during the period of the transition in legislation, from the 1987 Act to the 2000 Act. So I can say that I speak with some level of understanding of what goes on in an integrity commission, but I am bound by secrecy and confidentiality not to mention anything about what goes on behind those closed doors.

But what I can say is that I would like to bring some perspectives to this particular Bill so as to help my colleagues in this honourable Senate to understand that if these measures, these clauses, are transferred into actual legislation, there would be a number of clear and imminent dangers to the oversight of integrity as far as persons in public office are concerned.

Let me now go back to the beginning of my contribution, if you will allow me. I will give only one quotation—not many—and it is, as I reflect, the great philosopher, poet and saint of the 16th Century, Swami Tulsidas, in the closing verses of his epic Ramcharitmanas, one of the holy books of the Hindus. In his thirst for salvation and liberation he is quoted—and I paraphrase: Let me, O Lord, love you as a lustful man lusts and as a greedy man craves. Let me love you as much as that, or as little as that.

For many years I had some real difficulty in understanding why would a man in search of salvation seek to have the intensity as a lustful man, whether it be lust for power or otherwise? Or why would a man compare himself, a man of such high esteem and such an elevated position in terms of spirituality, why would he want that intensity as a greedy man craves for wealth?

It was only after I joined the Integrity Commission that I got a modicum of understanding of what this famous verse in the Ramcharitmanas means. I would like to take a different perspective today from those who are experts in the law and otherwise and speak to some of the practical issues that really have me very troubled about some of the clauses in this Bill.

Now and again I am asked to advise on various matters and if someone were to ask me—I am not saying that anyone has, but if someone were to ask me today if these amendments were to be passed should I accept an appointment as a member of the integrity commission, I would say, no, absolutely not, and I would say it in good faith. What I mean by that is, whereas members of the Integrity

Commission who, by definition in the law as it exists, are persons of integrity and high standing and who would have been in a way indemnified from action and suit for actions they would have taken by being members of the commission, now the door is wide open; because whatever you do, you may have to prove in a court of law that you did it in good faith. I do not think judges, as some of these persons have to be, I do not think they have to prove good faith, but these persons have to prove good faith and it is a very dangerous situation for them to be in.

Therefore, I ask the Attorney General to remove that clause altogether, because if you leave it in there, men of integrity and high standing will turn the President down on his every overture to sit as a member of that commission and, certainly, the advice they would receive from me, if asked, is do not go to that commission. But that is only one reason, because it opens up an entire hornet's nest. There are other reasons.

I want to turn my attention to some of the other players in this matter of the Integrity Commission. There are the commissioners, of course, one; there are persons in public life, two; and there are complainers who raise matters and may raise matters with the Integrity Commission. Let me talk a little, if you will allow me, about persons who seek public life, because I go back to Swami Tulsidas and my understanding which came by dint of sitting as a member of the Integrity Commission about this matter of lustfulness and greed.

When a man puts himself up for public office—and I say, man, generically—it is very often in an idealistic setting of wanting to serve the public. But if you believe that, you believe many things. Persons who want to go into public life go in for reasons other than that idealistic position of wanting to serve, and as I look across on that other side and, indeed, here amongst us, I ask the question: Which one of those persons came to public office only for that reason of serving? Which one?

Many of them would start in that way but I will tell you that power corrupts and absolute power corrupts absolutely. I will tell you that what happens to the hearts of man is that with the best intentions in the world—I think it is said that the road to hell is paved with good intentions—those who start in public office, if even they started with the idealistic notion only of serving all and sundry entirely as servants of the people, suddenly over time: arrogance, power, hubris. And when I look across the other benches, I cannot say that I see anybody who can be accused of hubris or even arrogance; that is today. *[Interruption]* I am speaking about the other side because I cannot see everybody on this side.

The point that I am trying to make is that over time something happens and when that something happens, persons who came as servants become masters; persons who vowed to listen, no longer listen to the constituents. Persons who I can recall being in the public service for several years—and what happens very often when a Minister is just appointed, some of them are not experts in their particular field; some of them are not experts in management, but in one day they move from the position of persons who know nothing about this particular field to persons who are elevated to being expected to know so much of that area.

3.45 p.m.

The real point is that over time what happens to these persons in public life is that they start to feel that sense of power and in some cases, “I am doing so much. I have a budget that is \$5 billion or \$10 billion; I write contracts for \$1 billion and look at what my income is; I deserve more.” In the hearts of men where the flowers ought to bloom—but for flowers to bloom they have to be nurtured, tended and cared for—weeds grow uninvited. So the flowers of truth, faith and love need so much care. The weeds of avarice and lust grow uninvited and sometimes they overrun the garden and smother the original intentions and beliefs of those who came willingly to serve and suddenly, there is a metamorphosis.

That is why we go to the point that integrity in public life—the commissioners are not there to teach integrity. If you do not have it and did not learn it from the very outset, it is not there. The role of an integrity commission is not about teaching integrity to anybody who comes there. It is about finding those who do not have the integrity and ensuring that they do not pilfer, pillage and steal the people's money. That is their job. Go to the courts to prove your innocence; innocent before being proven guilty. The job of an integrity commission, in my respectful view, is to be always on guard for the marauders at the gate.

From a practical sense, I believe the role of an integrity commission or the Integrity in Public Life Act would be vitiated, if some of these amendments are passed. I am a great admirer of the limbo dance because what that dance is about, is being able to get under the bar. The more the bar is lowered, the better the limbo dancer. That is the only case that I know of when you lower the bar, you get better value. [*Laughter and desk thumping*] It is the only case that I am aware of—and I will be so advised if there are other cases—when you lower the bar you get better value. This is what we are trying to do with this proposed piece of legislation. We are lowering the bar to a level that would make the Integrity Commission non-functional. Rest in peace, Integrity Commission. I will send my wreath and letters of condolence. Rest in peace.

The other part of the triangle is the ordinary citizen, that person who, if he wishes to complain ought to have the opportunity to so do and not be fettered unduly, by the amendments that have been suggested here, that the complaint be made in writing via Schedule 2 as proposed via statutory declarations. It is not a court of law. The Integrity Commission is not a court of law. It is a body that investigates. When the Integrity Commission investigates and there are findings of fact with regard to wrongdoing, those findings are passed on to the Director of Public Prosecutions (DPP) with the recommendation that he looks at those findings and takes the appropriate action.

The position of the ordinary citizen—in Trinidad, we have an ironic situation where the man of power and status is called “the big boy” and the ordinary citizen is called “the small man”. The small man wants to complain against the big boy and he must put himself in danger that he is going to be fined and imprisoned if he missteps, even if he sees some wrongdoing and wants to go to somebody to complain. There is one guard for persons in public office, the Constitution. The framers of our Constitution saw the Integrity Commission as the guard with one real function. It is to oversee persons in public life in the context of corruption and improper practices. That is their only function. If you were to go to other players that might have some sort of oversight, their role is wider. They look at many other things.

For the sake of the small man, I appeal to the hon. Attorney General to remove now, this whole notion of Schedule 2. I appeal to the Attorney General even further. When I look at the role of the Integrity Commission, it cannot be that the Integrity Commission cannot initiate an investigation on its initiative. When you do that, you are virtually printing a licence to thief. It is not that everybody will exercise the licence, but you are printing a licence to thief. I will tell you why.

Mr. Vice-President: You have used the word “thief” quite a number of occasions. I think that that is an unparliamentary word. Could you use some other word?

Sen. S. Ramkhelawan: I will be guided by you but I did not impugn the reputation of any one. I am not as learned as some of my other colleagues who can tell you what “a noun is and a verb is and synonyms and so on”. Licence to steal; licence to pilfer; licence to engage in corrupt acts outside the remit of a public office of a person in public life. As a young man, we followed that person with the 007 licence. I suppose that this might be the 008 licence. I say it to make the point that the Integrity Commission has now fettered itself from being able to investigate matters on its initiative.

Who is now to guard the public purse? Do we depend on the integrity only of persons in public office and in high office? Who do we depend on? These amendments will now result in the demise of the Integrity Commission. It would be useless. It has no value. It will collect declaration forms and collect declaration forms only. The small man is not going to come to raise a complaint because he has to do it in writing. If the small man was so minded to raise a matter and visit the Integrity Commission or even a commissioner of the Integrity Commission, nothing can be done because the commission cannot act on its initiative anymore. In the framing of the revised legislation, we have surreptitiously re-quoted the word “on its initiative.” We have ring-fenced acting on its initiative only upon a declaration and so what we have done, rest in peace Integrity Commission. These are some of the points that I wanted to raise.

Permit me now to touch on some of the specific amendments. The first is the \$10,000 rule which is an amendment to section 11 via clause 6 of the Bill. The wording does not make it very clear that this \$10,000 will deal with an amount on aggregate. I think that the wording of this particular clause needs to be adjusted to make it very clear that if amounts that are not declared are on aggregate of \$10,000, it would be up to the discretion of the Integrity Commission to allow it, to look aside from it. The wording suggests that the Integrity Commission has no discretion. If the amount is less than \$10,000, you ought not and must not look at it. That again, fetters the Integrity Commission. Sometimes, as you know, it is just the tip of the iceberg or the end of a thread that when you pull on, you find so much below the surface.

Again, I appeal to the hon. Attorney General to look at this wording and ensure that it is carefully worded. I support the idea that on aggregate, small balances on \$10,000, the Integrity Commission should have discretion as to whether or not they would look at it. In law they are required to look at every account and every asset held. Do not take out the discretionary part because that might be ways to stick things under the mattress.

4.00 p.m.

The second aspect that I wish to speak about and I would have mentioned before is the “in good faith” rule that is stuck in. I believe it is an adjustment to section 39 of the Act, where no member of the Commission shall be liable to action or sued for any matter or thing done by him under the Act. It is adjusted to say “thing done in food faith by him under the Act.” Hon. Attorney General, you are really opening a hornet’s nest there, because a lot of actions and suits could be

taken because of that. Therefore, I appeal to you to remove “in good faith”. If persons on the Integrity Commission do not or cannot act in good faith, there are other measures in the law that can deal with that.

You have also brought in some adjustments and you have detailed the bases for termination by the President. I support hon. Sen. Dana Seetahal SC that it should be a matter left to the discretion of the President that he “may”, rather than he “must”, because it is the discretion of the President to appoint and, therefore, it should be in the discretion of President to terminate.

My main concern, as I have raised before, is the whole question of the powers of investigation of the Commission under Part V. It may not have been the intent or a deliberate action on the part of the framers of these adjustments to remove the discretion of the Commission to act on its own initiative; it may not have been. I would appeal to the hon. Attorney General to relook this matter to ensure that the Commission, if it is to function effectively and properly, must have the power to investigate on its own initiative, I believe, in accordance with section 33.

Schedule 2, I think much has already been said about that and a clear case has already been made that, in terms of Schedule 2, the Integrity Commission is not a court of law and its access to information to help in its investigation ought not to be so ring-fenced that we should have to place so much weight and burden on the ordinary man. If he sees something going wrong, he is not going to come forward. You need to remove that burden, or else the checks and balances that we are actually trying to put in, would be overbalanced in favour of a person in public office and it would remove totally, from this fine balancing act, the role of the small man; the role of the ordinary citizen. Therefore, I appeal to the powers that be, in this case to the hon. Attorney General, to ensure that this matter is properly and fulsomely addressed.

The fifth point I would like to make is under clause 6, amending, again, section 11 of the Act. There is a proposal that a declarant, a person who is required to submit a declaration, would be allowed beyond May 31, a further period of up to 12 months to declare. This is really, in my view, inconsistent with best international practice, for corporate governance, institutional governance and disclosure. You have five months from the end of a year to submit your declaration. If you add 12 months to that, that is 17 months. What it does, in terms of corporate governance, it means that somebody can submit for 2008—They do not have to submit a declaration in 2009, they can submit it as late as May 31, 2010. Then they would have two declarations to submit. I do not think that would have served the purpose of the declaration forms.

While I am on the question of declaration, the hon. Attorney General, in her presentation, suggested that persons were unwilling to serve on boards for various reasons; one of them is that there would be some intrusion in their privacy by having to complete these declaration forms and register of interest. But nothing in the legislation that has been put forward addresses that. It is, in a sense, a complaint, but we have not done anything in the legislation to address that complaint. Why was it raised? I thought it would have been to address that, but it is not addressed at all. Maybe some of the reasons for the burden placed on ordinary citizens, the Commissioners of the Integrity Commission, would be spurious; not supported by what is brought in the amending legislation. My belief is that eight months is more than sufficient to submit your declaration form. It should really be May 31, plus three months, rather than May 31, plus 12 months. There is really no reason. The only reason could be that “I do not think that I ought to be—nobody ought to oversee me and, therefore, I am not bothering to submit.” Eight months is more than sufficient. Institutions in this land, by regulation, in most cases, have to submit their audited accounts after four months.

In many respects the major adjustments contemplated to the Integrity in Public Life Act, 2002, are flawed because they do not provide for improved efficiency in the work of the Integrity Commission. They are flawed because they actually water down the brandy, in terms of disclosure. They are flawed because the ordinary citizen is now relegated from a small man to a non-existent man in the whole process of integrity in public life. Therefore, when we bring Bills like these, it must be based on some philosophy. It must be based on policies, procedures and practices. What is the philosophy? Is it that we want to set about and in motion, legislation that is going to make it more difficult to bring perpetrators to heel in the question of integrity, persons in public office? I do not think for a moment that this is the intent or the philosophy of this Government. It may be that the legislation was badly framed and needs to be revisited before we make any such adjustment.

This Government, from what I have read, is committed to improved corporate and institutional governance. This piece of legislation is not about improved corporate and institutional governance, it is about a falling away, a reduction. I cannot believe that this Government is headed in that direction. I prefer to believe that the legislation was very badly drafted and can be corrected, rather than brought to this Senate and pushed through to the disadvantage of virtually every participant in this whole exercise of improved legislation.

My colleague, Sen. Dana Seetahal SC, spoke to the question of the need for amendment to the legislation in respect of judges, magistrates, et cetera. I need not say anymore, except that I believe it should be addressed in these amendments, rather than be left hanging. On the question of constitutionality of the amendment, I would leave that for the legal luminaries, except to say that I believe if you put all the amendments, including the adjustment to the judges, you may need a special majority.

The Integrity Commission is bound by law to operate in secrecy and confidentiality. This is actually not a bad thing. It is a good thing because it allows on the one hand for the small man to come and make his complaint. A lot of energy—and the amendments proposed really do not need even to be in this draft legislation, for the simple reason that under section 41(1) of the Integrity in Public Life Act, 2000, the section provides for the Integrity Commission to make its own regulations as to how it is going to take a complaint, in what form and whether it would be in writing or verbally. Section 41(1) is very explicit and clear. There was no reason to bring to this Parliament these amendments. The regulations, as made by the Commission, are subject to the affirmative resolution of the Parliament. They are somewhat superfluous. Maybe somebody had extra time and wanted to practise. Section 41(1) provides a sufficient framework for the Integrity Commission to act, make its own regulations, determine how it is going to take complaints and how it is going to run business in the Integrity in Public Life Act.

4.15 p.m.

In concluding, I believe that this piece of legislation is too flawed for reasonable Senators to consider voting in favour of it, and until and unless very significant adjustments and amendments are made to the Bill, it would be most difficult for me to give my support to it. I want the Integrity Commission to be functional, to be alive and to be capable to undertake the work with which it is challenged in the Integrity in Public Life Act, and the work which was envisioned by the framers of our Constitution, and that is to be the watchdog of integrity; not to teach, not to cajole, but to seek out and find out those who wish for their own personal purposes to plunder and pillage the public purse, and put the ordinary citizens at a disadvantage, because it would be one less school place, one less bed in the hospitals and one less policeman on the street, and we cannot support that. We cannot envisage that was the intent.

I wish to propose that this Bill be revised in its entirety and brought back to ensure that corporate governance, institutional governance and the intent of the Constitution are properly met.

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

Sen. Mohammed Faisal Rahman: I, particularly, do not like to rise at this time. I was hoping that somebody on the Government side would have taken the turn, but it seems as though the fates have decreed that I should speak now. Mr. Vice-President, I stand here today surrounded by the debris of a collapsed commission, and if this Government has its way, the washing away and sweeping away of every last vestige of integrity that was ever aimed at by the original legislation that was passed for the benefit of this country.

Sir, this is an occasion where so far everyone on this side of the Chamber has spoken against this legislation, and it is glaringly justified, because not only is the Bill flawed in its drafting, language, grammar and so many other things, but it is fundamentally flawed in the area that it seeks to amend and protect.

When Sen. Prof. Deosaran spoke—I do not remember the context in which he referred to the “douen”, but I find it a particularly applicable parable to apply to the course that this Government is taking. The footsteps of the Government purport to be walking toward integrity; they purport to be walking toward the enhancement of legislation, but we are only seeing the footprints that are there. When you understand that the “douen” has its feet reversed, the Government is not walking toward integrity, but really walking away from it. This is a serious issue.

We have heard so often that this is an honourable Government and it is a caring Government, and I do not want to disabuse anyone. Let us say that the Government is an honourable Government, and I will grant that but, as has been said before and, again, today, the way to hell is paved with good intentions. Honourable men make tremendous errors, and as we have had it from the President's lips, to err is human.

I believe that this Government has erred grossly in bringing this well-intentioned Bill to this Senate. This Bill was passed in the other place, because of the majority that the Government enjoys there. There is no independent thinking; but there is Opposition thinking, and the numbers are stacked against any reasonable argument that can be proffered against this misguided piece of legislation.

I never had any reason to be at odds on any serious issue with the Independent Senators, our worthy colleagues but, today, I am pleased, happy and reassured that we have people who think and understand and see the picture so well. My task is very easy, because so many Senators have come before me today and have spoken so clearly concerning the gross errors of this Bill that all I would need to

do is to put it into perspective in my own style, and present in an inarguable way, the points that are clearly defining this piece of amending legislation to show that its consequence is a collapse of integrity in this country.

Laws are amended when they are found to be too lax; laws are amended when they are found to be archaic; laws are not amended to facilitate crime; and laws are not amended to permit persons who have been peeved at the little indignities they have suffered as a result of the right of the public to question their actions. Laws are not amended for these reasons. It was said in the Lower House that this is the reason that these amendments are being brought, to stop these abuses. The Minister who was saying those words was referring to an indignity that he felt he had suffered by having been written to by the Integrity Commission to answer a charge. So, because a certain individual is too possessed of hubris and self-esteem, he must feel that the entire law that protects the integrity of this country must be overturned. I think it was Sen. Seetahal SC who said this was ridiculous. You know it is so nice that we can quote each other here. It is so ridiculous! The whole concept is ridiculous.

In this Chamber, the Opposition and the Independent Benches are echoing the demands of the public at large and, particularly, the responsible thinking leaders in this national community when we are saying that this piece of amending legislation is dangerous, insidious and of no benefit and worth to this country.

The Bill seeks in several major areas—I do not know if I want to go through the entire Bill, because there are so many things that are niggling and bothersome, but one of the areas that has been covered so well and needs to be repeated is that the Constitution protects the confidentiality of complainants. This amendment seeks to remove that curtain of confidentiality and to expose the complainant to every consequence of his courage.

Mr. Vice-President, this is not to preserve integrity, this is to destroy integrity. There is no way that anyone can justify the requirements that are being imposed by these amendments to bring a complainant who has a concern and some evidence in his own mind that something is wrong—well to quote Shakespeare, something is rotten in the state of Denmark. I am so happy that so many of our colleagues are showing great understanding of the flawed nature of man. It is something that I always make reference to. We do not have angels. Yes, we have beautiful Senators, but not angels. We have beautiful human beings, but not angels. We do not have angels occupying any seat in this Chamber. I am not saying that you do not have angels only on the Government side, but we do not have them on this side either. I accept that, but we must understand our fallen nature.

We have people who work very hard to put aside money for their pension, and you do enjoy your pension at age 65. This amendment is making a new ball game of self-contrived pension. Corrupt persons only have to wait five years after leaving office to get the benefit of the money they have stashed aside. In these amendments you are including a clause to bar by statute the malfeasance of corrupt individuals. That is one of the other major defects in this Bill, not to mention that when you consider that you want to extend the time for filing your declarations to another 12 months.

Mr. Vice-President, as long as that time is available, people are going to avail of it. There is no question about that. I heard something by a priest on the television this morning. They were discussing the seven deadly sins. One of the seven deadly sins is sloth. He described sloth as procrastination; never do today what you could do tomorrow. What is going to result from this Bill is the establishment of sloth. Sloth is now being institutionalized by extending the time, so that you will have 12 more months. Why are you going to rush and do it, quite apart from the other considerations that my colleague, Sen. Ramkhelawan, has detailed? You are establishing sloth.

When we understand the fallen nature of man, you have the question of gluttony, and this is what the Bill seeks to trammel. It seeks to trammel the gluttony; the envy that officials develop for greater things; the pride that they get into their hearts; the lust that they have for wealth and position and money; the anger they show when they are deprived; and the covetousness that they are possessed with. These are the seven deadly sins. [*Interruption*]

Mr. Vice-President: Senators, it is 4.30 p.m. and we will take the tea break now. This Senate is suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Vice-President: Sen. Rahman.

Sen. M. F. Rahman: Thank you, Sir. Mr. Vice-President, I had got to the point of the seven deadly sins, which this amendment to the Integrity in Public Life Act would unleash on this nation and in fact, impose upon this nation as a way of life.

The matter of integrity, I think it was the Minister in the Ministry of Finance who attempted to define the meaning of integrity or define the meaning of integrity in certain different areas. I think similarly my colleague, Sen. Ramkhelawan

also tried to define integrity. You know, Mr. Vice-President, Sir, words convey meaning, but words also must be understood in a context. In addition to that, words also connote certain things; in addition to that, words also denote certain things; in addition to that, words also shape and form the course of the lives of people and consequently the course of nations.

This matter of integrity in the first instance, as it was conceptualized by the Act of 2000, sought to stamp out corruption in public service. That in itself is an excellent goal and an excellent objective, but it is by stamping out corruption in public service that we institute integrity. When you remove corruption, you institute and implement integrity and it would have been an intelligent thing to hope that this integrity that would have been established in the public and private lives of public officials would have filtered down into the fabric of the nation.

It is a lack of integrity that causes a young man to father a child and leave the scene; it is a lack integrity that causes people to lie and cheat; integrity is the virtual glue that holds a society together. You know they say there is no honour among thieves; integrity establishes honour. Any move and any attempt to modify, to ameliorate, to amend an Act that establishes integrity in a particular genre undermines, not merely the establishment of integrity at that level, but the fabric of the entire society.

We have today, Ministers whose promises fall by the wayside. I am not attacking anybody here, but we have a murder situation that is escalating, and every year we are being assured that the next year would be better. It is better for the murderers, it is not better for the society, and there is no feeling of any shame; there is no invocation of integrity that a man would say I have failed in this job for five consecutive years, let me step down. There is no integrity being demonstrated.

This administration talks the talk but it does not walk the walk, and when it walks the walk it walks the walk with the feet of a "douen"; it looks as if it is walking forward but it is really going backward. The problem here is that what we are doing is not only burying integrity as Sen. Ramkhelawan so vividly portrayed, but we are destroying, not just the integrity, but the society.

When you are going to limit by statute culpability and I will tell you the culpability of which I speak, is not merely a single act, it is not a man stealing from me and I as an individual lose. When we understand corruption in public office, we are talking about corruption to the extent of billions and we are talking about the misappropriation of the patrimony of a nation.

Right now, the Speaker in the House of Commons is about to step down because there has been a violation on many levels of integrity and spending from the public purse. Ministers and Members of Parliament right now are being faced with exposure because the Speaker in his dual office of Speaker and administrator did not open up for public scrutiny and now it is found that there are Members of Parliament who use their credit cards and their spending permission to rack up bills that exceeded the salaries of Ministers.

In Trinidad and Tobago, we have in the last week been shown on TV6 exposé, a very similar situation having taken place here where the National Infrastructural Development Company is shown and this is a matter which, if the amendments are passed, the Integrity Commission can do nothing about it, because it can no longer exercise the initiative to go after publicly exposed corruption; it has to wait for sworn statements to be made public endangering the lives of the people who are making the accusations, and then seek to get the evidence from the individual. As Sen. Seetahal SC said, this is ridiculous. We have corruption that is flagrantly open, overt corruption and we are hearing that these enterprises are not answerable to anybody.

Sen. Annisette-George: "Where you hear that?"

Sen. M. F. Rahman: I will say that from all that we have heard from the Uff Commission that has been publicized, UDeCott does not have to account to the Minister, and we have CH Company mysteriously getting contracts. *[Interruption]* We are not going to conclude. The suspicion of corruption is so flagrant and the proposed amendment is going to tie the hands of the Integrity Commission. The Integrity Commission is going to be a commission without the capacity to impose integrity or to protect integrity.

If these amendments are even contemplated and we cannot even bring amendments to the Bill, because there is so little to commend in the Bill, and what is acceptable is irrelevant, immaterial and unnecessary but the salient provisions of the Bill are emasculating the Integrity in Public Life Act to the extent that it becomes worse than a toothless tiger; it becomes a declawed tiger.

Mr. Vice-President, Sir, Sen. Ramkhelawan talked about the limbo bar and dropping the bar. I will tell you these amendments will place the whole Integrity in Public Life Act into limbo. Limbo is that place where you have a never, never land; it is between here and Hades; and that is the limbo, and a different limbo I am talking about, because that is the limbo that this Integrity in Public Life Act is going to be put into if these amendments are even contemplated.

We on this side of the Senate are talking, not because we want to talk. The whole country is asking us and I have never seen this before, people are writing openly; they are calling upon the Independent Senators to stop this Bill in its tracks, send it back. They are, of course, expecting us to do it because even if the Bill was a good Bill they figure we would oppose it, but this time we are opposing it with good grounds. *[Interruption]* *[Laughter]* No, I did not say that. I say they would have expected us to. *[Interruption]* No, no, there are times when we have to oppose a Bill on principle because the Government does not stand by its word on many instances, so we sometimes have to oppose what we would normally like to support. You know even if we oppose it they are going to pass it with the majority; that is the tyranny of the majority. So, we only oppose to let the population know the direction in which the Government is headed. So you laughed prematurely.

This is a case where the corruption of this amending Bill is so open that it poisons the entire Bill by even being contemplated. This is a Bill that is the antithesis of integrity; it removes all of the provisions for integrity that are being enshrined in the Integrity in Public Life Act. There is no way that anyone on this side of the Chamber could reasonably be expected to close our ears, close our eyes and shut our mouths to what has been presented to us here.

The whole nation, representatives of the society at every level, diplomats, Reggie Dumas, Dr. Selwyn Ryan, Transparency International, all of these people; people are going on the television; people are coming on the radio; the town is saying this is terrible. Some of the retired people could also come under scrutiny after five years, but they are not afraid, because if you have integrity and you have conducted yourself in accordance with integrity and the law, you do not need five years to be saved, you could stay the rest of your life and you know you are safe, because you did not do anything corrupt.

Mr. Vice-President, I want to say this, that it is my lament that the full import of integrity has not dawned upon the administration in this country, because it is not only a matter of lack of integrity when you steal from the public purse; it is a lack of integrity when you treat the public purse as your own and provide for yourself in the way of extravagance that exceeds the desires of the pharaohs of the world when we treat ourselves to such luxuries, we deny the rights of citizens and the nation that are fundamental to their privileges, and we indulge ourselves in tremendous spending, opulence, extravagance and convenience.

This is not an ordinary occasion; this is an occasion that one has to look at because the ramifications are so tremendous; the enormity of corruption is something that has not been grasped, and what we are doing here is trying to put

in place—no, no, we are not trying to put in place, we are trying to remove the pillars of integrity that have formed the pillars upon which the house of integrity was built to accommodate the Integrity Commission. We are seeking to remove those pillars so the house will continue to be in a state of collapse.

5.15 p.m.

Mr. Vice-President, I want to come to one very important point. I am not a lawyer, far less a constitutional lawyer, but we have heard from the Minister of Finance, and I believe the Attorney General shares the view, that this Bill requires a simply majority. Now, as my colleague Sen. Oudit, I can only view things from an English language perspective and a logical and reasonable perspective. Two plus two, equal four. If you go into quantum physics, you have me confused. I do not know about that. So when you see—*[Interruption]*

Sen. Annisette-George: *[Inaudible]*

Sen. M. F. Rahman: I love law, but let me say this, "I will be told that ah wrong, and since ah doh have a law degree behind meh name, ah cyar argue." But I want to say this, that a right that is enshrined in the Constitution that is given to the Integrity Commission, and such a Constitution requires—*[Interruption]*

Sen. Annisette-George: Senator, would you give way? I just want to find out what right that is enshrined in the Constitution you are talking about.

Sen. M. F. Rahman: Yes, of course, by all means. I should have sat down for you, my dear, I am so sorry, but you did that rather quickly. You did that so quickly. In my view, the right that the Integrity Commission had, and still has until this amending Bill may slip through, was the right to act on its own initiative, untrammelled by any circumstance. It is a duty and a right. It is a right of the Commission to act in that way, as a duty towards the population, and this I view as being a salient right to—I will have to sit and give you a chance to speak. Would you like me to?

Sen. Annisette-George: Go ahead.

Sen. M. F. Rahman: Thank you so much. This safeguard which safeguards the rights of the populace has been crystallized into a right and a duty of the Integrity Commission. You know when you have a state of emergency, the police can do things they cannot do normally. Of course, in Trinidad, they will do it anyhow, even outside of a state of emergency. But the Integrity Commission has been given emergency powers in terms of the securing integrity in the original Act. This is why it can act pre-emptively.

Mr. Vice-President, in many of the pieces of legislation that have passed through this Senate in the past year, we have had where the police or the customs or the copyright organization with having enough reason to believe, can enter upon the premises of people and demand to see and examine certain things. This is to protect. The Government knows what it is to bring—well, they do not do it often—good legislation. It has imposed—

Mr. Vice-President: You have been speaking for about 35 minutes.

Sen. M. F. Rahman: On integrity, Sir. [*Laughter*]

Mr. Vice-President: I believe you have been doing your introduction. I have given you 35 minutes to do your introduction, could you get down to the clauses in the Bill at some time?

Sen. M. F. Rahman: Yes, Sir.

Mr. Vice-President: Okay. Thank you.

Sen. M. F. Rahman: Yes, Sir. But am I to understand that only by dealing with it clause by clause am I being relevant? If that is the case, I am in trouble.

Mr. Vice-President: Let your contribution be on the Bill. We are not debating integrity.

Sen. M. F. Rahman: Sir, this Bill strikes at the heart of integrity. I am not debating integrity.

Mr. Vice-President: Are you questioning—

Sen. M. F. Rahman: I am seeking your clarification here, Sir.

Mr. Vice-President: Okay. Debate the Bill, please! Okay?

Sen. M. F. Rahman: Yes, Sir. Thank you very much. I see I am treading on dangerous grounds when I bring these issues up. I have to be more cautious. May I just take a second to compose myself here, Sir, because I have become totally sidetracked from the direction in which I was going. This whole matter is concerning this amending Bill, but as you wish, I will go through it in a way that would bore some of us here, but it will be more relevant. Boringly relevant.

Hon. Senator: I see you agree about relevant.

Sen. M. F. Rahman: It will be boringly relevant. I was being surprisingly relevant before, in my view. [*Laughter*] Thank you, Sir. I see I have the good humour of the Senate.

Clause 3. This Act is amended by deleting paragraph (e) and substituting the following paragraph:

"(e) receive and investigate complaints regarding any alleged breaches of this Act or the alleged commission of any offence under the Prevention of Corruption Act;"

Very interesting here. What this is amended to say, it is only the commission of an act and the report of a commission of an act that can be investigated.

If you go to clause 15 in this Bill, you will see a very interesting thing. Clause 15 says:

"The Act is amended by inserting after section 42 the following section:"

And it goes on to 42A(a)(i):

"notified the Commission that his employer or any other person has contravened or is about to contravene this Act;"

Mr. Vice-President, this is a very important matter. Here you have a validation of corruption being reportable, if a person in the employ of the Government has reasonable cause to believe that someone has contravened or is about to contravene—"or is about to contravene this Act." So now the question about a person in the public who knows about something that is either going on or about to go on, he cannot report this. There is a contradiction here. I do not know if I made my point and I am dealing with the Bill clause by clause. Am I on spot, Sir?

Mr. Vice-President: Yes.

Sen. M. F. Rahman: Thank you, Sir. Here we have on the one hand, you cannot make a bona fide report and enjoy the confidentiality and the secrecy of witness protection, you must come out and say, "Here is meh neck, Mr. Corrupt Minister. Kill me if you want."

Let me tell you something. Men have been killed for far less than the millions and billions that can be pilfered from the Treasury here. We are not understanding—Sir, you have to stop me if I am going away from the Bill because I am in a state of trepidation here. I am very concerned. You see, I like to obey the law. When you ask me if I am challenging your opinion, I feel much pressured because I cannot tell you, yes. Obviously, I would get booted out the Chamber, but sometimes you give a ruling that may have overlooked a consideration. So here we come back. Here we have the Bill removing from the public individual, the citizen, the right to the protection that is given in so many other areas of criminal misdemeanour.

Now I say that this is an honourable Government, but what this honourable Government is doing is making it easy for dishonourable men to prosper in this country, as a consequence of these amendments that are being brought. Does the Government want to end up with all its honourable name in a dishonourable position? We have a situation here where the fallen angles of the prior administrations run by Government or administered by this Government have declared, "All ah we tief". We have had Ministers—who are deceased now—and their names are in the history books, hon. John O'Halloran, hon. Francis Prevatt. And you know what? These—[*Interruption*]

Sen. Annisette-George: Mr. Basdeo Panday.

Sen. M. F. Rahman: As yet free of any conviction. Mr. Vice-President, we have here where those people who had millions stashed away, would have taken what? You come to report against me? Mr. John O'Hallaran used to go and do cockfighting and come back in the country with his cocks and his brood and there was no integrity. I hope I am still on the Bill, Sir? The question of integrity has always been an alien matter to the PNM's prior incarnations and by bringing this Bill here today, by its demonstration here, that it is not committed to integrity.

Mr. Vice-President, by removing the right of an individual to report something which he feels under section 15, is likely to occur, you emasculate the Bill further. You are making it into a nothing. You are telling me that it is wrong to shout "fire" in a cinema when I see fire blazing up. What do I have to do? You are going to jail me forever, \$500,000 and how many years in jail. Already the Act has enough deterrence to mischief, but there is such a concern for protecting malfeasance; there is such a concern to safeguard miscreants and corrupt officials, that everything is being done in these amendments to close the door to public scrutiny and to protect the individuals. I am beginning to wonder how many people have "cocoa in de sun" already, and want to make sure that there is a statute of limitation connected to their activities.

I know the decent thing was when you pilfered from the Treasury, you would emigrate and enjoy your spoils overseas. It looks as if they want to stay in Trinidad and say, "Look, I do that. You cannot do me nothing. The law says I free." This is the consequence of these clauses.

Let us go again clause by clause and see what we can find. Now, I want to disagree with my colleague Sen. Dana Seetahal SC, a little bit, nothing much. She said the President "shall terminate". This is one of the interesting features of the Bill and this is why we cannot put amendments because I said that there are one

Integrity In Public Life (Amdt.) Bill
[SEN. RAHMAN]

Tuesday, May 19, 2009

or two little clauses that can be justified for being there in terms of reason and logic. These are almost like red herrings to give it an aura of decency, an aura of validity and an aura of legitimacy.

Sen. Annisette-George: You are imputing improper motives.

Sen. M. F. Rahman: No, no, I am not imputing motives. These appear to be like that. You know there is a story about the two monkeys playing a game, and every time one was losing the other one used to throw him a banana to make him feel he had a chance in the game again. These are little bananas that are being thrown out, so that when we see a few little good things, ha, ha, good Bill; we could point to a good clause here and there.

Mr. Vice-President, this is bad news. But anyhow, I am going to say something, that the President shall terminate the appointment of a member, and Sen. Seetahal SC was asking whether the President would not have run [*Inaudible*] in the circumstances, whether we are questioning him, but we have it from the lips of the President "to err is human". I do not know if our President would not have felt compassion for someone and kept him in office despite his insanity or despite other things. I want to know—[*Interruption*] No, no, no, the President would not do that. You look a little alarmed there, Sir. I hope I have not transgressed again.

I am curious about if a Member misbehaves in office. I heard about a Minister who behaved like a "wajang" and there has been no supporting or forthcoming testimony in the public arena, but he has been classified as a "wajang" now and because of his misbehavior in office he was booted out. I do not know what kind of a yardstick or measure this misbehaviour in office is really going to be measured by. Anyhow, let us go on.

Section 8, little amendments here and there which do not seem to be too alarming, but like I said, those are little tidbits to sweeten the bitter tea. My colleague went on to the question of the public officer, in the public service and the ramifications with that. I would not go there. I would support her in a position.

Clause 6. Section 11 of the Act:

"(1A) A persons shall not be required to include in the declaration, income, assets or liabilities, the value of which, respectively, do not exceed ten thousand dollars."

Now, is that \$10,000 per month, per annum, per single—? Per what?

Sen. Browne: In total.

Sen. M. F. Rahman: For the five years of office?

Sen. Browne: One year.

Sen. M. F. Rahman: Oh, say per annum then. Say per annum.

Sen. Annisette-George: You do your declaration every year.

5.30 p.m.

Sen. M. F. Rahman: Okay. You say every year and now you are bringing an amendment to extend 12 months. So it is every two years because you are bringing in an amendment to go for a further 12 months. It used to be every year, now by your new terms of amendments it is going on to a second year, a further 12 months.

Sen. Annisette-George: Thank you, Mr. Vice-President, and thank you, Senator. There seems to be some kind of misunderstanding with that particular provision which extends the time because one, there is a discretion given to the Integrity Commission to extend the time up to a period of 12 months and you must show good cause. So it is not an extension that a person in public life has of right, you will have to make an application to the Integrity Commission—that is how it happens now—if you are going to run afoul of the time. You have to show good cause why you did not file on time and it is the discretion whether to give you two or three months. All we are saying is extension up to a period of 12 months which is the maximum and you have to show good cause. So it is not as of right.

Sen. M. F. Rahman: Brilliantly explained, Minister.

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. [Sen. Dr. A. Nanan]

Question put and agreed to.

Sen. M. F. Rahman: I am much obliged to my hon. colleagues and I do appreciate the love and humour the Attorney General is trying to show me, the special attention. It is better than being shut up in the Lower House and being deprived of the ability to speak. A little picong here and there, no problem, but I want to say that the Attorney General has explained very lucidly that it is at the

discretion of the Integrity Commission but we have on record the head of an Integrity Commission with all the discretion it had, taking a matter to the Prime Minister and asking his permission whether he should prosecute or proceed with the matter. So we have a little convoluted reality here.

I am struck by the contribution of Sen. Ramkhelawan because as a former member of the Integrity Commission, he has not said that the Commission is burdened, that it has a difficult time and needs this ease up, or that ease up. He is against these amendments and it is a relief to know that there are no areas that the Integrity Commission in its pristine integrity would have wanted to have any of these amendments brought to ease it up.

We have a serious situation here. I have to push a little fast because I did not realize that time was going so quickly. Clause 7:

“7. Section 12(2) of the Act is amended by inserting after the words ‘additional particulars’, the words ‘where such additional particulars are in the sum of ten thousand dollars or more’.”

The interesting thing is, since the Integrity Commission can only wait for a signed declaration, it will never know if the omitted amount were in fact, more or less than \$10,000. So anybody could leave out and only a whistle-blower, or somebody who is the accountant for the malfeasant official could give the Integrity Commission a little wire and say: “That fella has so and so in the oven.” There is no way without the right of pre-emptive investigation that the Integrity Commission can determine whether a return has been accurate in terms of having omitted what it should not. So when you talk about \$10,000 that is a total wash out.

We come now to clause 10 which I covered briefly:

“10(5) No prosecution for an offence under this Act, other than an offence under section 20(5) shall be instituted—

(a) without the written consent of the Director of Public Prosecutions...”

I do not know if that is reasonable or not because the Integrity Commission should have the ability to prosecute or to establish or start some form of—all prosecution ultimately has to be approved by the Director of Public Prosecutions if I understand correctly.

But if this is saying what I think it is saying, the Integrity Commission had a right to prosecute, and now it no longer has a right to do so, again this is trammelling of its rights and a reduction of its authority.

“(b) after five years from the date when the person in respect of whose declaration or financial affairs the alleged offence was committed ceased to be a person in public life.”

This is the big bugbear. I made the point about a reduced pension period so you can now provide for yourself and after five years in your face we have this. I do not have to give account to anybody how I came by this. This is a clause that strikes at the core and heart of integrity.

There is no reason to ease up criminals. This Government has the habit of making laws and then easing up. We have non-compliant schools and universities and they extend this and that; there are things going on and you extend. You cannot implement law preferentially, emotively and partisanly; law is a matter that is devoid of sentiment, you either break the law or you did not. The judge or magistrate has the right to reduce a sentence in certain circumstances, to discharge you under certain sections and so forth, but if the law says you have to be prosecuted for something, you have to be prosecuted once it is discovered. This thing about limiting the responsibility up to five years of being in office strikes at the core of integrity.

Mr. Vice-President, I am very glad that our colleagues are all seeing the point. Clause 11, section 27(3):

“(3) Where a gift or personal benefit referred to in subsection (2)...”

This shows the short-sightedness of the Government here. In this day and age you have corporations and holding companies that look after about 15 or 20 subsidiary companies.

One holding company, one corporation could give the maximum permitted from each of its subsidiary organizations and according to this, you do not have to declare a single one. So not only can an official receive \$5,000 free without question, he can also receive \$500,000 over a period of time if the holding company or corporation has enough subsidiaries. Some of our companies in Trinidad have 30 and 40 smaller companies under their wings. So when you are looking for patronage and political favour and you are giving, you are giving a means to be able to pass bribery and encourage corruption in a way that is flagrant.

Now we come to the infamous clause 12 which everybody has condemned. This clause alone is enough to say: “Throw this Bill in the garbage bin.” I had mentioned on this matter, but since we are doing it clause by clause, I will deal with it clause by clause.

You are telling somebody who now has to have his own private investigation firm—because he has not only to put his neck on the block, openly declare his intention, and telegraph information to the corrupt official of what is going on so he could burn all his papers and destroy the evidence, but he is exposing himself to danger and he has to produce evidence, he has to have a virtual small police force.

It is only the Prime Minister who enjoys a special, elite police force that is not legally constituted in terms of Act and statute. SAUTT can get all the information it wants to put to guard them against assassins and to get the information to produce to the—

Sen. Joseph: On a point of order. Mr. Vice-President, the Senator is misinforming the honourable Senate. The Prime Minister does not have a private organization and SAUTT does not belong to the Prime Minister.

Mr. Vice-President: Yes, I think that was answered in this Senate already.

Sen. M. F. Rahman: I stand corrected, I was perhaps voicing the public perception of the issue. *[Laughter]* I may have gotten carried away, but I stand corrected. The Prime Minister does not own his residence, he enjoys it; he does not own SAUTT, he enjoys the services of SAUTT; and he has his outriders, and when he goes to visit a radio station, he has his armed bodyguards because he does not pay. “He ain’t have nothing.” *[Interruption]* I will leave in a blaze of glory because I will not be able to finish everything; I cannot finish everything today.

Mr. Vice-President, I believe we should be calling you President in the present circumstances you know, because the President is already in another place, you are the virtual President.

Mr. Vice-President: I am the Vice-President.

Sen. M. F. Rahman: You are the Vice-President when he goes out and you sit down for a few minutes. This has been bothering me.

Mr. Vice-President, I will stick by your rule. This sort of corruption can lead to murder, mayhem and treason and if you have a vendetta streak, it could lead to plenty trouble down the line. So this whole matter of Part V, Powers of Investigation, throw it out! Imagine a complainant has to have his complaint supported by documentary evidence.

The power of the Commission to consider and investigate, we have covered that already. It no longer has its own initiative to initiate any investigation, action or prosecution. I would not worry to give you kudos for the little red herrings you put inside there.

You want to tell somebody that—

Sen. Annisette-George: “Who is you?”

Sen. M. F. Rahman: “You, the Government, want to tell somebody—well, I is Rahman but you in this case, is de Government.” I am corrupting the pronunciation of my own name here, I am R-a-k-m-a-n actually. But you are threatening a conscientious individual with a fine of \$500,000: “Boy, yuh better shut yuh mouth before we jail yuh and make yuh bankrupt forever.” This Bill seeks to intimidate, threaten, cajole and to shut the door on integrity, to throw out everything that is bad in a concept is contained in this piece of legislation you are attempting to bring.

I have some nice notes here, but again, time constraints. To sum up, this Bill, if the Government has any sense of responsibility, and if it is the honourable Government that it wants to be seen as being, it would withdraw these amendments, it would put them—do not even try to amend them to bring them back.

We have good legislation already in the statute books that when they were in Opposition they joined in a majority to pass and to amend, and they have accepted it as good legislation, but because it threatens certain sacred cows in this country, they have sought to bring amendments to emasculate it, to defame it, to make it into a toothless tiger so it cannot do for the public the protection the public deserves to have done on its behalf.

I thank all, and Mr. Vice-President in particular, for this indulgence.

5.45 p.m.

Sen. Wesley George: Mr. Vice-President, I rise to enter this debate on the Integrity in Public Life (Amdt.) Bill, 2009 and as I do so, I have been trying, in listening to the comments put forward by Senators on the other side—very valid comments, but for some reason I have been trying to wrap my mind around some assumptions being made. Someone coming to Trinidad and Tobago for the first time, listening to this debate, could easily get the impression that citizens in this Trinidad and Tobago, one, “fraid” the Government; that citizens in this country do not lie; they do not plot to pull people down. That does not happen. I love citizens

Integrity In Public Life (Amdt.) Bill
[SEN. GEORGE]

Tuesday, May 19, 2009

but I just want to wrap my mind around something here. I am taking a particular line, just for the argument sake, that citizens in this country have a problem or they are afraid to complain or “buss a mark” on the boss; that does not happen in this country; citizens have a problem in collecting evidence to support that.

Not only that. If any one of us, myself included, remains in public life long enough, chances are—there is a good chance—that I will end up a thief.

Mr. Vice-President: I just ruled that the word “thief” is unparliamentary.

Sen. W. George: Sorry—sooner or later I will steal some money if I remain in public life long enough. I was just sitting here listening to the debate and I was just trying to wrap my mind around those assumptions.

Before I move any further, I just want to say that I firmly believe that persons in public life should be made to account; should be held accountable for their actions; that there is no separation between your personal life and your public life. I personally believe that. However, one has to ask the question: Because I am successful, because I have a long distinguished career, because I have decided to pursue or lend my services in the service of the country, does that give the average citizen the right to say anything about me, to make any sort of accusations about me without having to account for it? Does it mean that my name must be pulled through the mud at the whims and fancy of some individual on a commission who, for some reason, does not like me, or according to Sen. Ramkhelawan, has been in the position for so long that they have assumed on to themselves—they believe that they are beyond reproach, and they can do that?

Those, effectively, are some of the assumptions that I am getting. I am finding it hard to connect that to reality. I am finding it hard to think that citizens of this country have a problem—

Sen. Dr. Nanan: On a point of order. Section 35(1)—relevance.

Mr. Vice-President: Please continue, Senator. [*Desk thumping*]

Sen. W. George: It has been put forward in this debate that the provisions as stated in section 32(1) would prevent persons who are willing from complaining to the commission. That is where they speak to the complainant would have to sign a declaration and provide documented evidence.

Sen. Seetahal SC: Statutory declaration.

Sen. W. George:—Statutory declaration, and provide evidence to support their claim. Persons have been making the point that this is irrational and it will

deter persons from seeking justice. If that is so, then I must have been dreaming when on several occasions Sen. Mark has produced documents supporting—I am talking about documents that persons would have—you would have had to be working in a department to get. For some odd reason they just suddenly appear in Sen. Mark's mailbox.

Sen. Mark: What? What is he saying about me?

Sen. W. George: No. They appear in his mailbox.

Sen. Mark: Are you sending something to my mailbox?

Sen. W. George: No. The point being made is that it is unreasonable for the average citizen to find that information, fair enough, but from my point of view and from the standpoint I am talking of a person in public life, if someone comes, for example, and files a complaint: “Wesley has land in Tobago”, there is no need for them to state their name or say who they are. I must not know that information. There is no need for them to supply any documented evidence of that.

Sen. Seetahal SC: That is what tips is about. [*Interruption*]

Sen. W. George: The point I am trying to make here is, every day on my desk—people write to the ministry complaining; doing this very said thing, saying “this one corrupt”; “the CEO corrupt”. The Minister of Health has a position that once anyone writes complaining of anything at all, we have the obligation to investigate it. When you try to investigate these things you normally meet a wall quickly. Most of the time they sign their names so that is not an option; they usually sign their names so you can at least find them to get additional information and you can move forward with an investigation, so you know upfront that this person is serious and showing some willingness to see it through.

In the instance where they are unwilling to provide evidence, you have nowhere to go. All that is, is an accusation. I will give you an example. Sometime ago—and I believe Sen. Mark alluded to it; it had something to do with the CEO of an RHA. There were claims being made that that CEO was corrupt; all manner of things. Someone called me long before the issue was actually raised in the House, and said: “Listen, this CEO is corrupt to the core.” They said X, Y and Z. I said, “Okay, no problem.” I spoke to the PS; the PS said, “Well, all right, we will go and investigate.” They sent the auditors to investigate and they found nothing.

The person called again and asked: “What you all did?”

Mr. Vice-President: Even though you are talking at the top of your voice, I am having a bit of problem hearing because I am getting a lot of feedback from the Bench on my left. So could you please tone it down a little bit? Continue, Senator.

Sen. W. George: Thank you, Sir. So the person called to find out. He asked: “What you did?” I told him: “Well, listen, we investigated but we did not get any information.” So I asked the question: “Can you give me some evidence?” That is the next thing. “Give me something to work with.” He said: “All right, I will give you some evidence.” What he did, he put exactly what he told me in writing and he sent an email. I suppose he sent emails to everybody about this thing. I said: “Well, you simply elaborated a bit on the points.” He said: “All right.”

I took it again. I spoke to the Minister about it and he said to look into it. I went to the PS; I said: “PS, we have to look into this thing.” He said: “All right. We will send the team in again.” We sent it to the chairman; we did everything but we could not find anything.

Now, I had a chat with the CEO about it, face to face and she was able to produce evidence to back up her side of the argument. Now, the funny thing is—and this is my point; this is just my experience—about a month after all of that—even Sen. Mark raised it here and the Minister had to clear it up—the said person came to me, patting me on my back and saying: “Listen, boy, aye, da woman is a good woman.” I said: “Ent you was telling me to fire the person?” He said: “No, no, no; I make a mistake, doh worry; she good to go.”

My whole thing is that persons' careers are at risk, really. I mean to say if things had gone differently, as some of us are asking the provision here to allow—

Sen. Dr. Nanan: I just want to get some clarification. Did you say an investigation was launched based on an anonymous report?

Sen. W. George: Yes.

Sen. Dr. Dick-Forde: No, it was not anonymous.

Sen. W. George: What we are saying here is that the Bill provides for anyone to make a complaint. The parent Bill says that you can make a complaint in writing. There is no need for you to provide evidence. What I am saying is—I am drawing from my experience. My own experience is, without that evidence, you can unintentionally find yourself going on a witch hunt and you are distressing people who just want to do their jobs, really and truly.

I am saying that by requiring the complainant to make a statutory declaration and at least to provide some documentary evidence as we in this Parliament know that persons can provide if they really want to pursue something, what that says is, it brings validity to the investigation and we do not distress persons unintentionally.

A lot has been said about the complaints and the provision for complaints, but it has also been noted in this debate that complaints in the past have been relatively small. It is roughly about eight actual complaints they have had to investigate, of which only one has been taken to the next level. As far as I am aware, the main concern for persons in public life is not so much fear of someone complaining, even with the present legislation, the main concern is the declaration of assets.

6.00 p.m.

As many on the other side have identified thus far, none or little change has been made to those aspects of the legislation that treat with declaration. The whole argument that we are pandering towards a particular sector and we are trying to protect people, I am trying to understand the argument. We are not making it exactly easy for them. I am not aware that when persons speak to integrity or anything relating to the Integrity Commission or persons in public life, anyone is afraid of persons lying on them, so to speak. That only comes into play when you are actually in it.

I am not aware that thus far that is the real concern. The real concern is—the real hindrance for persons coming into public life is the invasion of privacy that is involved. That directly relates to that. All this talk about—I appreciate the concern. I really do. Again, I am trying to link it with what is happening in reality. That is all I am trying to do.

Sen. Oudit: Are you referring to the invasion of privacy as it relates to the eight persons who were under some sort of scrutiny?

Sen. W. George: The point I am trying to make is that a lot has been said about the amended provisions to make a complaint. We are saying that even without those provisions there is not an overwhelming number of complaints coming in to the commission as is. *[Interruption]* The real concern to persons in public life is not persons complaining on them; the real concern to them is the declaration aspect. That has not been changed in the amendment. The idea that in some way we are trying to make things easy for our friends or so-called white-collar people to do what they want does not hold water, when you look at the evidence.

The other thing is section 33 which speaks to the investigative powers of the commission. Just to throw it out there, if we were to use Sen. Ramkhelawan's point, when he started speaking of persons being open to becoming corrupt; it is open to anybody. We come into office with good intentions and after a while we may become corrupt. I am not denying that. That is true. The possibility is indeed so. It is also a concern of mine. At present, present legislation—this is going to the extreme—with 26 radio stations; about five TV stations; seven daily newspapers all with columnists and everybody saying what they want, a member of the commission, let us say the chairman, picks up something in the media, it could be anything and decides, "I find this is worth investigating. We are going to investigate this." On that ground alone, "you sitting down watching news, driving to work and you listening Umbala. Umbala make a big storm about something. Yuh listening to this guy, Anil Roberts. He makes a big thing about something in the evening and he says, 'Listen, I am going to take this up in the morning and we are going to investigate this.'

That is indeed a present possibility. Is that right? I am just asking questions. Is that right? Does he have the moral authority to do something like that? On what basis is he pursuing that? That is indeed possible according to the present law. On what basis? Is that correct that? We must appreciate that depending on what field you are in, the minute your name pops up in a particular conversation, you begin to lose money. If for example, you are in the financial field where your income is based on your integrity and persons' trust and confidence in you, today or tomorrow, out of nowhere, the talk of the town is that you had some corrupt dealings. You do not know where it came from; you do not know where it originated. That is just a feeling people have. The newspaper get wind of it and a good editor was able to make a good story out of it.

The Chairman of the Integrity Commission says, "Hear what is happening. Ah reading dis ting; ah hearing everything about dis and we got a letter." What then goes on with your livelihood, immediately? On what basis? What right? Who gives anybody the right to torture someone like that? We like to say there is a risk for the complainant. I agree with that. We should find some way to protect them. What about the person whom he is complaining on? Is he not also subject to some kind of headache? Is he not also taking a risk by coming into public life? Are his children and wife not subject to the same sort of discrimination and everything? They also go through that. I am not hearing that kind of sympathy coming out from persons on the other side in the debate. I am trying to create a little balance to the argument. Look at the other picture as well. The truth also holds for the other side of the coin. They are also at risk.

Sen. Seetahal SC: I am trying to follow, with all due respect to the Senator. I gathered you were saying that a commissioner could listen on his radio to these talk show people and decide to initiate an investigation under the current law and should people be subject to that. That was the rhetorical question posed. Since this amendment is not changing that law; the amendment leaves section 37 free, what is the point about making the observation? If it is that the Government cares about it, well go the other way and do something about it. I am not suggesting to do it because I think it is perfectly fine. You raised it and there is nothing in the amendment about it.

Sen. W. George: In the parent Act section 33(a) says that the commission “may on its own initiative.” At clause 12, section 33(1), the amendment says:

“The commission —

(a) may, where it is necessary, on its own initiative, upon examination of a declaration furnished pursuant to section 1; or

(b) shall, upon the complaint of any member...

consider and examine any alleged breach of the Act or any allegations of an offence under the prevention of Corruption Act.”

It says that, whereas in the present legislation the commission may pursue or start an investigation on its initiative, the amendment gives a basis for that investigation to be pursued.

Sen. Seetahal SC: Mr. Vice-President, may I? Section 37 remains. That is a separate section. There is no basis necessary. Section 37 says:

“The Commission may on its own initiative consider any matter with respect to the duty or obligation of a person under this Act, where in its opinion, it is in the public interest to do so.”

There is that right given to the commission still existing. It has nothing to do with section 33.

Sen. W. George: Mr. Vice-President, that was the point and this was the actual clause used to justify the point I am addressing. I am just raising that point on the same platform in which it was put to us.

Clause 12, section 33(2) speaks to the provision for the person being accused to be informed that he is being accused and of course who is accusing him. A lot has been said about it. However, when I look at the other side of the coin, I ask the question: What is the role of natural justice here? Am I not allowed to know

Integrity In Public Life (Amdt.) Bill
[SEN. GEORGE]

Tuesday, May 19, 2009

who is accusing me? Am I not allowed to face my accuser? In any event, the parallel has been drawn many times over in this debate as to what attains in a police station. Someone can go to a police station and make a report on someone and there is no need for that person to furnish evidence or anything of the sort, but somewhere along the course of justice, the person who is being accused would sooner or later face his accuser in court.

It happens on the other end. They are simply saying, “This is what is being said about you. This is the person who said it.” It then gives me the opportunity to protect or defend myself. It protects against ambush. That is what it is attempting to do. I am asking myself if it is fair that because I am a person in public life anyone can say anything about me and I must go through all that stress that comes with that and I do not know where it is coming from and who said it. Is that fair at all?

With respect to the concern that persons or whistle-blowers will be victimized, apart from unions and the hundred million and one pressure groups there are in Trinidad and Tobago who will jump at the intonation of a whistle-blower being victimized in Trinidad and Tobago, the present Act seeks to provide some protection for them. It has been mentioned before by several speakers on the other side, but not in this particular context.

6.15 p.m.

I know that is a major concern for persons on the other side. I also know that it is also a very valid concern. I really want us to—again, I hear the concerns of Members on other side, but I really feel the need to intervene in a manner so as to bring some balance to the argument. I was not exactly too sure that you were seeing the entire picture. There is a lot of talk about, rightly so, the small man and average citizens. One also has to take into consideration that we are also leaders and that we are responsible for protecting the so-called, for the sake of the argument, big man as well.

I thank you, Mr. Vice-President.

Sen. Corinne Baptiste-Mc Knight: I thank you, Mr. Vice-President. I find myself in the unfortunate position of coming to the crease without a bat after Brian Lara, but I am comforted by the fact that from time to time, he too scores duck.

I have tried to listen attentively to the debate so far and, as a result, my contribution would be much shorter, because many of the points that I would have wanted to make have been eloquently dealt with. There are a few areas that continue to concern me.

I refer to section 139(b) of the Constitution where it requires Parliament “to confer such powers on the Commission as are necessary to enable it to carry out effectively, the purposes of section 138.” I look at the original Bill and I look at these amendments and I have the strong impression that, were I to go along with these amendments, I would find myself in contravention of this section of the Constitution because, as has been pointed out before, there is an agreement that there is room for amending the current legislation, but as many of my colleagues on this side have pointed out, the measures which are being included in this amendment are in fact emasculating the Commission.

The first question I would like to ask is, again, in the light of my understanding of section 138(2)(c) of the Constitution, where it says that the Commission must supervise and monitor the standards of ethical conduct prescribed by Parliament, I get the impression that what we are doing here is prescribing conduct for the Commission. The question I would like to have an answer to is: Has the Commission been consulted on these amendments and if so, which Commission and what was its opinion? Did it agree with these amendments? [*Interruption*] It could have been done before February, because these things take time. In the light of the fact that if the Commission had decided on this before, at some point, there would be a new Commission, are we following the Constitution by trying to put these amendments through at this precise moment in time? As a non-lawyer, I just leave the question out there, but my answer would be no.

Let me quickly move to the clauses here. I would not comment on clause 6, because I have promised not to comment on problems of language. I move on to clause 8, new subsection (5), where it states:

“Where a declarant has filed a declaration...”

and 18 months have elapsed, it

“shall be deemed to have been fully made.”

I do not understand what that means. Let me explain what my problem is. When I filed, I got a certificate of compliance, which I was told I must keep because it is an important document. If 18 months elapse and I do not have a certificate of compliance, what is the impact of my being deemed to something having been fully made? It is not a certificate of compliance.

Should a person in that situation need, for any legal reason, to prove that they are in compliance with their duty, vis-à-vis the Commission, can they go before the judge and say, Your Honour, I am deemed, or it is deemed? No, I do not think

Integrity In Public Life (Amdt.) Bill
[SEN. BAPTISTE-MC KNIGHT]

Tuesday, May 19, 2009

that is good enough. I suspect—although from what my distinguished colleague has just said, the Commission might not be overworked—it is an attempt to lighten the burden on the Commission of having to go through these thousands of declarations. In fact, there is another way of looking at it; that you are building incompetence into the Commission by allowing it not to seek to comply with its duty to the people who file.

Now, when this is read carefully in conjunction with your clause 10, which states that the Commission has life in public office, plus five years to bring prosecutions against you, it means that because they have not replied to you in 18 months, you cannot assume that you have a certificate of compliance. You have to wait until five years after your last stint in public office, “if yuh still alive”. Then there is no need for a certificate of compliance anymore because “yuh done ded”. These things confuse me. It is either you need a certificate of compliance—If for some reason the Commission, as it is currently constituted, may not be able to provide such within 18 months, which seems to be the time that the Government thinks is good enough for these certificates to be issued, then give it the resources to do that. Do not come with these half-ideas to try and get around it.

With respect to Part v, believe me, I understand the angst and absolute frustration that would lead anyone to want to protect themselves at all cost, but this is really at all cost. These measures are really a bit draconian. I would not go into that area much further, because Sen. Dana Seetahal SC dealt with it quite comprehensively, at least to my satisfaction.

I would like to move on to section 33, where I am sure that in introducing the Motion, the hon. Attorney General was at pains to point out that the initiative of the Commission was being limited in this respect, to the declaration and the allegations. Hear the problem I have with this. The Constitution says at section 138(d) that the Commission is charged with:

“the monitoring and investigating of conduct, practices and procedures which are dishonest or corrupt.”

Can you remove that authority from them by amending section 33, when I assume that section 33 was drafted as it is, in order to comply with that? In the very Act, I do not see an amendment for that purpose at section 5(1)(f). It mandates the Commission to investigate the conduct of any person falling under the purview of the Commission which, in the opinion of the Commission, may be considered dishonest or conducive to corruption.

Section 52(c) says:

“The Commission shall have the power to authorize investigation for the purpose of carrying out its functions.”

I have a problem. One part of the Act says the Commission has authority. Another part of the Act says it has authority, but it is limited. I think we have to make up our minds. My mind is made up to the fact that it cannot work.

There is a lot of concern expressed for the victim of the allegation, but section 34(2) says when the Commission rejects a complaint, it will notify the complainant in writing. So what about the victim? Where is your concern for the poor victim? You are concerned when there is an allegation, but when the person's name is cleared there is no longer any concern or compassion. It does not make sense. You have to inform the claimant as well.

I would like to, in closing, mention section 42(A). I would just say that anybody who can read this to mean that somebody is being given protection, the President shall have to deem them crazy.

I thank you.

ADJOURNMENT

The Minister of Energy and Energy Industries (Sen. The Hon. Conrad Enill): Mr. Vice-President, I beg to move that this Senate do now adjourn to Tuesday, May 26, 2009, at 1.30 p.m. where we will discuss Private Member's Day. The debate on this will continue the week thereafter.

Question put and agreed to.

Senate adjourned accordingly

Adjourned at 6.31 p.m.