

Leave of Absence

Tuesday, November 09, 2010

SENATE

Tuesday, November 09, 2010

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Sen. Penelope Beckles-Robinson, who is out of the country.

SENATOR'S APPOINTMENT

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

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ G. Richards
President.

TO: MR. DANIEL DOOKIE

WHEREAS Senator Penelope Beckles-Robinson is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

NOW, THEREFORE, I, GEORGE MAXWELL RICHARDS, President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DANIEL DOOKIE, to be temporarily a member of the Senate, with effect from 6th November, 2010 and continuing during the absence from Trinidad and Tobago of the said Senator Penelope Beckles-Robinson.

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 4th day of November, 2010.”

Oath of Allegiance

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OATH OF ALLEGIANCE

Senator Daniel Dookie took and subscribed the Oath of Allegiance as required by law.

LAND ACQUISITION

[Second Day]

Order read for resuming adjourned debate on question [November 02, 2010]:

Be it resolved that this Senate approve the decision of the President to acquire the lands described in Appendix I for the public purpose specified. [Sen. The Hon. V. Bharath]

Question again proposed.

Mr. President: Hon. Senators, those who spoke on the last occasion were: Sen. The Hon. Vasant Bharath, mover of the Motion; Sen. Terrance Deyalsingh; Sen. Prof. Harold Ramkissoon; Sen. The Hon. Subhas Panday; Sen. Shamfa Cudjoe; Sen. The Hon. Therese Baptiste-Cornelis; Sen. Dr. James Armstrong and Sen. Fitzgerald Hinds.

Sen. Hinds, you spoke for four minutes on the last occasion. You have 41 minutes left and if you intend to proceed, we welcome you.

Sen. F. Hinds: Thank you very kindly, Mr. President. I had indicated on the last occasion that I entered the debate at the point when I did, following on my good friend, the Minister of Health, Sen. Therese Baptiste-Cornelis, and I observed of course, she intervened, most likely in an unprepared manner. Having heard some comments coming from Sen. Deyalsingh, I think it was on this side mere mention of her portfolio, mention of health centres, and with that she became discombobulated—[*Interruption*]

Hon. Senator: “Discom” what?

Sen. F. Hinds: “Bobulated”. Discombobulated; as most Ministers on that side appeared to be. You saw only a few days ago, last Thursday, the Minister of Foreign Affairs became discombobulated as well in an interview and that led to the firing of a proper, well-meaning and professional television talk show host in this country. That is why I begin my contribution by saying today—I know there are many people in this country who will not understand that this Government is dangerous. It was a Minister in the very Government, the Minister of Works and Transport, Mr. Warner, who once told us that the hon. Prime Minister is charming, but she is dangerous and deadly, and it is true.

The Minister who presented this Motion in respect of the acquisition of land is not here; rather unfortunately, but he dropped a bit of a—we will call it differently as buoy, but let me say a smelly bomb. In his presentation when he told this honourable House that the EMBD entered rather strangely into 10 contracts within 90 days in the run-up to the last election—he told us that at great length—to the tune of \$1.1 billion and that he as Minister took the decision along with his colleagues in the Cabinet, to put those contracts on hold. He was careful to say, not that they have been repudiated, but he has put them on hold pending the appointment of the new board of the EMBD. Of course that could take any amount of time because, as you know, part of the troubles with the governance in this country, is the fact that that dangerous Government has taken a rather inordinately long time to put the boards to govern this country in place. [*Desk thumping*]

Of course, between the state enterprises which require boards for its management and conduct of its affairs, they are responsible for a large chunk of the expenditure in this country and the development programme and what have you. So that could take any amount of time. He said that he was shelving those contracts pending the appointment of the board, and we know—we told them before—part of the reason for softening the governance of this country by their failure to appoint boards with promptitude, is because they spend a lot of time between themselves fighting over the spoils of office. The COP wants certain positions, the UNC wants certain positions, and that is one of the difficulties that we sought to explain to this country as it relates to coalition governments. It is part of the problem; not that they do not work, but there are challenges that would not exist in a unitary party, a solid party like the People's National Movement. [*Desk thumping*]

The Prime Minister had to intervene in the airport to stop Mr. Warner from going along with two contracts that he had put in place without board appointment. He told us eventually that he was thankful that the Prime Minister prevented him from carrying on with that impropriety. In any event, the Minister who presented this Motion and who spoke about EMBD, I am advised that he is fully aware of all of the details of those contracts. He had conversations with the EMBD, the outgoing board. They took pains to explain to him that these contracts had to do with the preparation of lands that the government had promised to former Caroni workers, to make and to provide serviceable units with the infrastructure that it needed.

He gave the impression that the former management did that surreptitiously. Of course, they could not have known that an election was impending. The Prime Minister always told us that he had kept the date in his back pocket. So to give the

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impression that the EMBD went along and ran these contracts quickly in 90 days in the run-up to the election was rather disingenuous on his part and he is aware of the facts. I am told by those people in that organization, that he raised the matter with them. They explained to him logically and quite straightforwardly what the facts were, but in typical UNC style he had to come here and try to throw a smelly bomb at other people. That is what they do.

The process I might tell you, quickly, began since in 2008. The tendering process began in October 2009 and was completed by—I think everything was done by November 2009. So there was no rush. The process was followed and he knows that. He spoke and I am going to call a name—let me not do that. He spoke to the people there and they advised him on everything, but that is how they do it.

Mr. President, Sen. Shamfa Cudjoe told us that in relation to sorting out the land title issue in Tobago—a long-standing issue; an issue that has challenged previous Governments; difficulties with land titles in Tobago and many of us in this House including your good self would be fully aware of those difficulties—the THA put a team together and did a considerable amount of work and offered it to the Government by way of recommendations to resolve this problem. The matter went to the Office of the Attorney General. It is now on the desk of the current Attorney General, and he is fully aware of it. He has promised in response to a question, I think it was that he—no I think it is another question. The Attorney General promised us that he will act with haste in getting that matter in Tobago sorted out—he and his Minister of Legal Affairs.

So we expect they will do that and give the THA and the people of Tobago the credit for the package that they had prepared by way of recommendations and offered to the Office of the Attorney General for consideration as a resolution to this problem. I say so in anticipation of the fact that they may very well come here with that package, and as usual, pretend that they had done something about a problem that they did absolutely nothing about.

1.45 p.m.

Mr. President, in respect of the issue of land acquisition, it was Sen. Dr. Armstrong, I think, who told us something that struck me rather forcefully. I was making the point on the last occasion that it was former President Robinson who told us that the professional class contributed largely to some of the challenges that we face in this country—and these are my words—although people think it is usually the political practitioners.

Sen. Dr. Armstrong made the point that very often there is the situation where, if you get a private surveyor to value your land, he gives one value but when it gets to the Commissioner of Valuations the landowner finds the values are markedly different. One works for the State; the other not. Both are professionals; both are trained. How do we wind up with this major discrepancy? It is in the resolution of that discrepancy that some of the pain people feel would ensue.

How do we resolve that? The Minister, having gone to the other place with this Motion, heard from our colleagues and others who contributed to the debate that many of the problems have absolutely nothing to do with the Minister. Most of the interface in a land acquisition matter takes place between the public servants and the landowner. Very often the Minister is not involved in that process at all, only rather belatedly as a formality. For one reason or the other, the Minister, in the other place and here, seems to lend the impression that it was the callousness—and that was his word—of the PNM, the last government, which led to some of the pain, anger and frustration that some people feel as they experience the delays that afflict the land acquisition process.

Mr. President, it is quite clear, notwithstanding the fact that the legislation is very straightforward—and the Minister went through elements of it—that sections 3, 4 and 5 are all straightforward insofar as the law is concerned but the implementation of it poses problems from time to time.

We learned about and discussed in this Senate and elsewhere the question of surveys. Sometimes a survey may not have been properly done. The boundaries that the surveyor may have used might have been a little off and very often surveys have to be redone. In that process we have heard—and it is correct—that the surveyors do not proceed with the haste they should and this lends to the delays.

I would have thought that the Minister, having gone to the other place and heard these issues, having come to this Senate with the matter, would have come here with some firm recommendations and suggested ways in which these processes could be expedited in the interest of the people for whom he pretended to feel some pain; instead he blamed the past government for that.

We heard his presentation. He told us of all the problems. He blamed the last administration for the delays and all that and went away quite merrily without telling us a single solution to some of those problems. I found that rather discomfoting.

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He is the Minister. He and his Government are now running the affairs of the country and we expected them, particularly since he complained that he attempted, to resolve these matters; but no such thing. He also told us that there were about 300 cases where there were bad surveys and they had to be redone and all these problems. You know something, Mr. President? Although he blamed the last government, he offered absolutely no evidence as to why the blame should rest with the last administration.

I am sure from my own experience that none of the files he has perused, even the 12 cases he presented here, would have explained in any way that some Minister was responsible for the delay. Absolutely not! He came here in an attempt to score cheap political points and blame the past government hoping to appease their supporters.

We heard about those survey issues. We heard about the effects of the delays in the whole process of acquisition; the question of the landowner eventually being paid money on the basis of a valuation at the time that the land was acquired, and because of some difficulty, whether letters of administration or grant of probate, where someone else would have challenged ownership of the land and the opinion of the Chief State Solicitor had to be sought, it sat there for a long time. Whatever the reason for the delay, the landowner is eventually paid or offered the old value, the land since then—over 20 years in some cases—having appreciated.

In the other place it was suggested to the Minister—I am glad he has just arrived—that they may want to consider an amendment to the legislation to put in place an escrow account so that the money could have been placed in escrow. Two things would happen: it would acquire some interest and the landowner would not walk away with the mistaken impression that the State was being oppressive by not paying. That is sometimes how they feel when, in fact, the State cannot pay until the issue of ownership or some of the other problems that have arisen had been solved. I would have thought that the Minister would have come here with some ideas of that, having had the benefit of the debate in the other place. He came here empty-handed in that respect.

Sen. Bharath: Empty-handed rather than empty-headed.

Sen. F. Hinds: We are very capable, you know that. You know we are very able. Do not trouble yourself.

There was one period in our recent history where there was no Commissioner of State Lands for a very long time. In my own practice as an attorney, I encountered difficulties where we could not get important documents signed

because a commissioner of state lands was not appointed. Things like these happen. If you have this escrow account, it will assist the landowner in no small measure in the two senses I have explained.

Sen. Panday: Hon. Senator, do you not think that this is an opportunity to educate the population to endeavour to have their title rectified as early as possible so that they would not have the problem of an escrow account for a very long time?

Sen. F. Hinds: I agree and I think that the earlier these matters are dealt with the better.

I am reminded now that in your contribution you advised the public, through this forum, about the 1981 legislation in respect of land. I thought that was quite good and I commend you for that but the fact is that some of the difficulties we have seen in respect of the process for land acquisition, even if they had done their letters of administration or probate early, some issues can still arise. The question of the survey is one. Some of them are unavoidable and the escrow account, in any event, can assist. This is something that the Government may want to consider.

The Minister did say that it was told to him, in response to the UNC's usual utterances, that the People's National Movement in government was willing to utilize Caroni lands, implying that all Caroni lands were perfect for agriculture. In the other place, it was pointed out to the Minister that that was not correct; that a large chunk of Caroni lands is not suitable for agriculture in the sense that some people may think. As a matter of fact, when Caroni was wound down, a land use study was put in place by the last government and it suggested how the lands could be used. It was also pointed out to the Minister in the other place, in response to a suggestion by Members of the Government, in Opposition at that time, that the then PNM Government was taking Caroni lands and doing all kinds of things, taking it away from agriculture and from the people.

Hon. Senator: You wanted to put a prison on that at one time.

Sen. F. Hinds: I was the Minister in the Ministry of National Security with responsibility for prisons and I am aware, because I was personally involved in this, that we were clear that we needed more space for that aspect of national security. It was quite clear that we were having issues with riots and flare-ups as a result of overcrowding. As we entered the approach from a retributive system of justice to a restorative one, it became clear that we needed to do a number of things including the establishment of a prison industry where prisoners could

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contribute to the development of products which could be sold. They could earn an income, as happens in many countries, which will be held on account for them. Some of the money could be used for reparation for their victims.

When you kill the breadwinner of a family you leave that family in a difficult position and in some countries, in the modern penal system, they allow that kind of thing. Some moneys that the prisoner earns go towards the benefit of the victim's family.

We do not now have a juvenile facility for females. We have a YTC so that when we have juvenile females, they spend time among the adults at Golden Grove. We needed some more space and Cabinet approved a portion of land out of the former Caroni lands for the expansion of the system.

We have issues with delays in the court system and the Minister of National Security and the Attorney General now have to grapple with the question of delays in the administration of justice, particularly the criminal justice system. The Minister of Justice, Mr. Volney—I was about to say Chief Justice Volney; I always think of the Chief Justice when I think of him—is now grappling with this issue. They too will discover that the prison needs to be expanded for those reasons.

2.00 p.m.

We considered putting a remand facility on those lands, for South and Central prisoners because, in the absence of that, they have to all come to Golden Grove on a daily basis, with exposure to security risks and serious implications for cost, by way of transport. These were some of the plans. Again, the Minister just, very glibly, blurts out—is nonsense a parliamentary word?—some policy on the hoof, not understanding these things. It is that same mentality that caused them to tell their supporters that we were taking Caroni (1975) Limited lands to build houses to give to people on the Corridor. That is the mentality that afflicts them.

It was pointed out to him in the other place that a land study was done by an independent assessor, and it was in that study. He was not even aware of it. One of his colleagues in the Lower House, the Minister of—he used to be a trade union leader—it is not the Minister of Labour. One of his colleagues got up to ask the Leader of the Opposition whether that land study was ever made public. He was a union leader, taking positions on behalf of the union and was blissfully unaware; just like the Minister of Food Production, Land and Marine Affairs, that such a study—[*Interruption*] yes, Mr. Rudranath Indarsingh, the Member of Parliament. He came here empty-handed and unprepared; only prepared to direct

criticism on the last government, not even properly informing himself as to what the realities were. It was in that debate that it was pointed to him that in fact it was his Government, the UNC, that brought 150 acres of Orange Grove lands into the housing project, Oropune and its environments. *[Interruption]*

Sen. Bharath: You said that last week.

Sen. F. Hinds: Yes, and I am saying it again, because I want you to internalize the fact that you are always just mouthing off things for good political mileage, when there is no real logical basis to the argument; just as how you mentioned a while ago that we took 100 acres of Caroni (1975) Limited lands for prisons. You do not understand. You need to inform yourself; otherwise you will mislead people in this country, as you usually do. Unfortunately, there are a lot of gullible people out there. *[Interruption]*

Sen. Abdulah: Would the Member give way? Thank you. The Senator was referring to a land use study. I recall that, as President of FITUN, one of which member organizations at the time was the Trinidad Islandwide Cane Farmers Association—there was also the Sugar Industry Staff Association, as well as the Association of Technical Allied and Supervisory Staff (ATASS) as members of FITUN—we met with then Ministers Valley and Rahael, and we specifically requested that, as soon as that land use survey was completed, we be supplied with a copy. I wish to say that X number of years later that document was never received by myself as President of FITUN, or by any other member of our federation at the time, which, perhaps, suggests that this grand study that the Senator was talking about was never made public and was only available to a few on the other side.

Sen. F. Hinds: The operative word is “perhaps” and you are absolutely wrong. *[Interruption]*

Sen. Abdulah: Make a copy available.

Sen. F. Hinds: I make a copy available? It is in the Ministry of Food Production, Land and Marine Affairs. It is in the Ministry of Housing. All the public servants are aware. He has arisen. The last time I saw him, he was walking with Watson Duke and others, along St. Vincent Street. I understand that too is causing some discombobulation in the Government. So, I understand. *[Interruption]* I do not want to be disturbed. Mr. President, can you protect me from him? I do not want to be disturbed by him. He is getting discombobulated again. That is how they are and that is why I tell you that they are dangerous, because they are afflicted with ideology, one-track minds. *[Interruption]*

Mr. Panday: No, no. Mr. President, Standing Order 36(5).

Mr. President: Imputing improper motives?

Mr. Panday: Well 35(5).

Sen. F. Hinds: He is becoming discombobulated again. There is no such Standing Order.

Mr. Panday: No Member shall impute improper motive to any Member of either Chamber. That is Standing Order 35(5).

Mr. President: I did not see imputation of improper motives at that point by Sen. Hinds. We would let him proceed at this point. Thank you.

Sen. F. Hinds: This is precisely why, when you returned, having served this country in the Office of President, I so warmly welcomed you, Mr. President. I would bite my tongue on what I was thinking to say hereafter. I would bite my tongue and move on.

Let me, just for the record, say that the law is rather simple, straightforward and clear. It was read to us by the Minister. We all have copies of the *Laws of Trinidad and Tobago*. It is in practice, the implementation of it, that there are a number of issues that can arise. Sen. Dr. Armstrong identified the question of the valuation. He also identified the importance of land use policy. We have pointed out here and in the other place that, in respect of Caroni (1975) Limited lands, a substantial chunk of the lands was affected. I am pleased to say that the last administration had put in place a forest policy, and they need to acquire copies and avail themselves of the information, an inventory of the forests of Trinidad and Tobago.

The last administration had also put in place a National Physical Development Plan. These are important documents for a government to avail, if it has to govern a unitary state like ours, or any state, effectively. I want to tell my friends on the other side that they are in government now. It falls to them to carry the thing forward. We see the difficulty you are having. We understand your plight. We know you have internal and other issues. [*Interruption*]

Sen. Panday: You might not be there much longer when Manning comes back.

Sen. F. Hinds: You see again the level of ignorance. Mr. Manning has not gone anywhere; he is the Member for San Fernando East. This is why we pity you. We understand your plight. We understand the difficulty; the internal

combustions you are having. Imagine the Minister of Works and Transport not speaking to the Minister of Finance. Imagine as we are challenged—*[Interruption]*

Sen. Baptiste-Cornelis: “Where you get dat information? Yuh get de wrong information.”

Sen. F. Hinds: Minister of Health, you had your say and you are not wearing red today. Could you take it nice and easy?

Sen. Baptiste-Cornelis: “Ah have on purple.”

Sen. F. Hinds: That is a good colour for taking it easy. We need to be sensible about this. There are, in fact, people who have suffered as a consequence of the acquisition process. Sen. Shamfa Cudjoe was very, very detailed and lucid on this. We understand. She read from a list of persons from the island of Tobago, who were so affected. Really, the State needs to take some kind of action to make the process as efficient as possible to prevent that, but to have to come here and to give the impression that it was some kind of political—*[Interruption]*

Sen. Bharath: Incompetence.

Sen. F. Hinds:—incompetence is rather unkind and unfair. As we all know, the 12 items that he read, as he presented that Motion, will not be the last. He spoke of 300 cases regarding bad survey that had to be redone. So, as long as he remains in that portfolio, and as long as Government does what it has to do and the State does what it has to do, more lands will be acquired for different public purposes and we would have many more experiences of people. Of course, he did not tell us that there are many people whose lands were acquired quite effectively and efficiently and they were paid promptly, without some of the problems he identified.

He did not take time to tell us that, because he had an objective and it was to give the mistaken, wrong and misleading impression that somebody was callous and somebody did not do it right, but he will get his comeuppance. When the public servants tell him day one: “We cannot go one step further on this, until such and such is done”, and a member of the public who wants pay or wants to be paid for his or her land is waiting out there, he will understand. One day, another Member of Parliament will stand in this, or the other place, and will tell him that he was callous, brutal and politically incompetent. Of course, he will understand that it is not entirely correct.

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Mr. President, in light of those and with those few comments, I would like to support the Motion to advance the acquisition of the land in the 12 cases that the hon. Minister has raised, and it is our—*[Interruption]* I am being reminded by my friends and I thank them rather profusely, having directed my mind to that haphazard Minister, to set him straight.

It was brought to our attention, as we caucused recently on this matter, that very many of the figures in the 12 items that the Minister presented were incorrect and require amendments. Of course, he did not tell us that. He did not print this document; it was someone else who did it. I can easily accuse you of political incompetence for having brought a Motion with incorrect figures to this place for us to pass. Therein lies the point. This is why the old people would always properly advise: “Drink yuh porridge cool, doh drink it hot. Sip it. Take yuh time.” I know you are suffering from a bit of newness, but take it nice and easy.

We hope that the Leader of Government Business in this place would point out the errors that we have detected, to the Minister, and that we would correct them, because, had we continued to be oblivious of them, we would have voted in support of this and it would have gone with errors and we probably would have had to come back to correct it again.

With those few words, again we on this side, just like our colleagues in the other place, fully support the Motion, in terms of advancing the final stage in the acquisition of land and the settlement for those landowners, and we are pleased that the State would have acquired those lands, because it would have advanced the public interest. I wish to thank you.

2.15 p.m.

Sen. Basharat Ali: Thank you very much, Mr. President. I join this debate on the Motion before us and I intend to be quite brief. I remember last Monday when the hon. Leader of Government Business told me about the reversal in the order of debate, I mentioned to him that I would help him, and I would probably not speak on the Land Acquisition Motion, but circumstances have changed in the meanwhile, and I still intend to have a short input into the debate. I do not think that I will be too long, but there are some matters which have come up, including the matter that Sen. Hinds just referred to and, in fact, I am going to talk about it in the first instance; the accuracy of numbers in the Schedule.

First of all, I listened to the debate here last week or a good part of it—I was doing something else otherwise—and I realized that there was much toing and froing on this matter, but I was interested in what the hon. Minister of Food

Production, Land and Marine Affairs had to say. I go to a paragraph in which he said on that day, and let me read it from the *Hansard*. I presume it is an unrevised *Hansard* and it says:

“Mr. President, it is, therefore, very obvious and evident that this process is heavily weighted in favour of the State, which I do not believe could have been the intention, at any point in time, that the State would be in a position to take advantage of its citizens. Therefore, it may be that this new people-centred Government would have to look at making the necessary amendments to this piece of legislation, although it was only enacted 15 or 16 years ago, making the necessary amendments to ensure we can correct some of these anomalies and biases in the existing legislation.”

This legislation that he is referring to is the 1994 land acquisition. Mr. President, I have to confess that I never read it. It is a large Act and the regulations are enormous. So, although I have been here for these years, I have never read it, and I did not propose to read it.

More importantly, yesterday around noon, the Assistant Procedural Clerk from the Senate called me to let me know that there was a citizen, a retired person, a pensioner, who wanted to talk to somebody from the Independent Bench to bring to the attention of the people the points which were raised in this debate. I did not speak to that person, I do not know him. I asked if he could send me an email, and I said I will read it and see what I can do.

Mr. President, I was surprised, in double quick time, this person sent me, a long email and, evidently, he had been following this debate very closely last Tuesday. There were many points that he raised that looked to me to be worthy of consideration. He asked if I could distribute it to Senators. So all the Senators have copies of what he had sent to me and some of them have commented to me that there is quite a lot of material there. It turns out that this gentleman is a retired Commissioner of Valuations. From that point of view, I thought of what his job was. When he finally spoke to me, I told him that I could not do anything—this is by email—I am working on something else. So he sent back a little email and said to me. “Thank you for your assistance. I would be extremely happy if someone recommends consultation along the lines of 1994 as per item 10 of my submission”. So, in response to what the hon. Minister was speaking to, the amendment to the Act, he is suggesting that you have consultation.

I looked at what he had proposed, and he must have been the Commission of Valuations at the time. He said at that time the public servants had draughted a Bill and it was opened for public debate, and out of that came the 1994 Land Acquisition

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Act. I believe there is something reasonable in that, and I think if we have to amend this Act—I am seeing from the Minister's presentation we should—then we should consider this recommendation from this person who evidently has a lot of knowledge, and who has been following very carefully what has been going on in this Senate on this Land Acquisition debate. So, I bring this to the attention of the Senate. As I said, I do not know the person and I have never spoken to him. All our correspondences have been by email and, I think, he will be listening today, and he will be very happy that what he has recommended is what I am saying to the hon. Minister and which may be needed to be done when the time comes. Mr. President, that is all I was going to say on that item.

In connection with the other matter which is what I was going to speak on—the accuracy of the data in the Schedules and item description on the Order Paper—I had downloaded the hon. Minister's presentation, and I looked at what he said on the two items with which I was concerned, and that is item No. 5 of the Appendix. If anyone has the previous Order Paper, you will have to look at the earlier Appendix I, and you will understand what I am talking about then. The Minister, in making his presentation on item No. 5, spoke about land for the construction of housing and government facilities, and he gave a number of 24.698 hectares which, in fact, is the correct number. He said the parcels are more particularly described in the Schedule on the Order Paper under No. 5. Okay let me read both of them. That is the first one there. He gave 24.698 hectares. If you look at that item, you will see it says “24,6998 hectares” in last week's Appendix, and you would not know what that is except they have “(61.03 acres)”. If you know conversions, there is 2.47 acres to one hectare, and you will see that 61.03 is the right number and, therefore, it should be 24.6998 and not what is printed in this document.

Under the Schedule of the same item, it is the same thing, “24,6998 hectares (61.03 acres)” but in the Minister's presentation he had given a figure of 24.698. In fact, he made the correction when he was making his presentation.

Now, the other item which I also picked up at that time is item No. 6 on the Appendix. It says:

“A parcel of land comprising 1,9526 square metres (4.89 acres)...”

Well one cannot say how 4.98 acres comes up to any number there. If you go to the Schedule then you will read correctly, 1.9256 hectares and they gave (4.89 acres). So, once again, these are two numbers I questioned, but the Minister had said that under item No. 6 he used the number in the Schedule, but he put the

decimal in it. He spoke of 1.9256 hectares, and said that this parcel is more particularly described in the Schedule on the Order Paper under No. 6. So, I am saying that those are not the figures in this. I raise this matter because this is not the first time that I have raised questions like that, and I will come to that.

I have to say that I approached the hon. Minister and he referred me to public officers who were there, I remember saying they were very helpful, especially the young junior surveyor who evidently has all these conversions, et cetera in her head or on her calculator, and I got all the corrections made—all the corrections were made then—and, evidently, the Parliament staff has something to do with the preparation of that. They agreed to do all the corrections, except that when I saw the new Appendix I and under item No. 6, they had taken out the figure of “4.89 acres” which they had on the old one, and that is fair enough, because they do not need to have that number.

I was told that a previous Minister, whenever there was a figure he wanted to have a number for hectares—give him acres for square metres; and give him square feet, et cetera, and that is why it is in brackets. In the new Appendix attached to the Order Paper on November 09, 2010 you will find that those numbers are now corrected.

I have to thank the two persons who were sitting there with whom I spent a good bit of time. In fact, that is why I did not hear much of the debate up to 4.30 p.m. This is something that I am touchy about. I spotted it immediately, and I am touchy about it.

I go now to what my experience has been on that matter. This is the third consecutive time that these Schedules have come here with numbers which are not correct. I go back to a land acquisition in 2008, when I said that there was a hodgepodge of units in there—square feet, square metres and metres was spelt, m-e-t-e-r-s. There is no square unit spelt like that. I went back then to 2008. In fact, I have the *Hansard* and it is dated June 10, 2008 and I spoke on it. So, I was saying there are different units of land given there—acres which is not a metric unit; hectare and lease rates based on hectares and metric units—and then they reverted to square feet. This was in 2008 that I am talking about. This is the *Hansard* dated June 10, 2008 and anyone can check it.

In 2009 when we did another Land Acquisition Motion, lo and behold, we had the same problem with all kinds of odd figures there. The worst part of it was that they had used the words square metres in many places, and each time they spelt it m-e-t-e-r-s. Mr. President, I take strong exception to that, because a metre is m-e-

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t-r-e, and this is what our young children are learning—a metre, a centimetre. Any SEA student would tell you that is what it is. They are doing all of this. Today in the *Express* you are going to see a tutorial in centimetres, metres and conversion of all of these things. So we were doing it then and what happened on that date? Mr. President, let me tell you.

On March 17, 2009, having gone into the discussion that there is no unit called a m-e-t-e-r, I was basically stopped by the President of the Senate, who told me that I had spent five minutes on spelling. Yes, that is true. It is here in the *Hansard* of March 17, 2009. I can tell you that, and that is why I downloaded it. Let me tell you what the hon. President of the Senate said.

2.30 p.m.

Mr. President, I quote:

“Mr. President: You sit. I have given you five minutes to talk about spelling. I think that is enough. You need to talk about land acquisition now.”

That was your predecessor telling me that, and I replied:

“Thank you, Mr. President, for bringing me in line. I do not intend to vote for this because so much of the land is described in “meters” which is not a measure.”

That was the end of it. There is always someone hiding behind typos or editorials, but the basic problem is that nobody takes the time to think metric and we have had a Metrology Act in place since June 2004. Yes, since June 2004 we passed a Metrology Act in this House which was assented to, but it has never been proclaimed. So almost six and a half years have gone and there is no proclamation of the Metrology Act. It is there festering.

In fact, one thing did occur in November last year, 2009; they brought an amendment to the Metrology Act, which is still not proclaimed, so it is not operational. They brought an amendment to give effect to units for sale of natural gas, the units being the standard cubic foot and the British thermal unit, which is what our natural gas is sold in; it is the unit of sale. They did bring that and passed it here in November 2009, but we are still waiting for the Metrology Act, for anything to be done about it.

The fact of the matter is that when we did the Metrology Bill in June 2004, they had asked for inclusion of the barrel. The barrel is not a metric unit, so you had to make special provision for the use of “barrel of oil” and restrict it to trade of commercial oil production. On that occasion I said that you needed to use cubic feet and BTUs and I offered then to help them to get that amendment in place. Do

you know the first time that has come up again was November last year? Yes, November last year, that was when it came up. I have to say that I made a contribution. I had worked on it and consulted with the National Gas Company. Basically, the amendment which went through last year November was my amendment. So we have an amendment to the Act already in place, but we have gone nowhere.

Mr. President, many people do not know that we were well into metrication. We had a Metrication Board; we had good people on it. The Chairman of the Metrication Board was Prof. Imbert; the Executive Director was Mr. Robert Masson, a very well qualified engineer, but then it lapsed in 1987 when the National Alliance for Reconstruction (NAR) government came into office; they had no use for it then and since then it has gone awry.

We used to measure cloth, et cetera, in metres. We used to measure every other unit. We used to use centimetres. We went to kilometres for the measurement of distance, et cetera, but all of that is lost, and whenever I ask about metrology they said that we needed to do two things: We needed to get everything in place and we needed to sensitize the public. The only group of persons who are being sensitized are the children; the SEA students are the people being sensitized. The SEA scholars with their laptops will leave a lot of the population behind, because they would have the ability to use the latest electronic technology and they will know all about the use of metric units.

I just had the *Express* newspaper SEA tuition course for November 02, the day we were dealing with it, and all the questions and answers for the sums the children had to do were in metric units. Even if you go to today's *Express* newspaper, you would see the same thing. The *Newsday* and *Guardian* do the same thing. So the only people who are sensitized are the children. We have lost a lot there.

I want to find out from this new Government what their position is on metrology because, one year after the Metrology Act was passed, we passed another piece of legislation called the CROSQ Act, which is the Caribbean Regional Organization for Standards and Quality. That agreement was a Caricom agreement. This Act, Chap. 82:05 put into effect an agreement within Caricom, all signed, sealed and delivered, but one of the principal things there is probably worth just reading that part of the Schedule, because the main part of it is the Schedule, which is the agreement. [*Interruption*]

Mr. President: Could you focus on the matter at hand, land acquisition. You are straying somewhat.

Sen. B. Ali: Thank you, Mr. President, I know, but I am very passionate on this matter. The next time we have a Land Acquisition Bill we will get to the same position and I will be saying the same thing again. I just want to say that we have obligations. We have an Act which requires us to develop through the Council for Trade and Economic Development (COTED). The Minister of Trade and Industry is not here, but through COTED we have to develop standards and metrology, so that we become a modern and competitive State within Caricom.

I know you are trying to get me back to this, but whenever I get the opportunity to speak about it, I do and this is why I spoke about it. We will never get there if we continue like that.

Mr. President, if you would allow me one more example; on Friday last our hon. Prime Minister went to St. Lucia. On the list she had, one figure was given for the water. Blue Waters were the people supplying the water, and the figure was given as 27,000 pounds; that is why I say there is no sensitivity about the metric system. Has anybody ever seen a bottle of water, a little one or a big one, that says pounds? They say it is in litres and fluid ounces; litre is a metric measurement and fluid ounces is a weight measurement; but never pounds. It struck me, because I have never seen pounds as a unit; therefore, I wondered how that got to the Prime Minister and she said it. It was reported in all the newspapers.

On Sunday in the *Newsday* there was an article: "PM to be honoured by Glamour Magazine", by Carol Matroo, on page 5. There was another figure for that same thing, 27,700 litres of water. That is more than twice 22,000 pounds, because a litre of water is 2.2 pounds. Where are we? This figure may have been given out by Mr. Garvin Nicholas, the Press Secretary. Right now I do not know. That is where we are; we have to do something. I am glad you are letting me get a little leeway, because I have nothing to say really on the other matters, except that all these numbers here had to be changed and I took the initiative to get it done through the members of staff of the Lands and Surveys Department.

That is about as much as I would say. The hon. Minister of Trade and Industry is not in our House, so I cannot even ask about metrology. I will put him on notice that I will be posing a question as to what is the status of metrology in Trinidad and Tobago.

Thank you.

Sen. Dr. Rolph Balgobin: Mr. President, I join this debate in support of the Motion put forward by Sen. Bharath regarding the acquisitions of these 12 tracts of land. I do not propose to be very long today. I want to just speak to the issue of corruption in the acquisition of lands and, again, very briefly.

Before I do that, let me make the observation that I found the Minister's words to us quite interesting and informative. There are two things, however, I wish to note about his discourse. He mentioned a question about the legality of EMBD contracts after the election was announced. If that was so, I am hoping in his winding up he clarifies what about those contracts would have concerned him, if there was a question of legality or illegality. [*Desk thumping*] I am sure he would agree, as most reasonable people would, it cannot be that the business of the State stops when an election is called.

The other interesting point he made was that he asked very quickly a very important and weighty question, one, I suppose, which can be put quickly, but which should take a good deal of time to answer. He asked: "To what use do we put our lands?" We have a limited amount of land available; 1.3 million people are living here on 2,000 square miles, and lest I incur the wrath of my colleague, I would say 5000 square kilometres or thereabouts. [*Laughter*] Of course, this is not an even spread. There are vast rural tracts in Trinidad and Tobago. I thought the Minister rightly wondered: What do we do with the lands that we have? How are we going to use these things and for what purpose?

"I thought my colleague, Sen. Dr. Armstrong, furthered that particular line of rumination by changing the question around to say whether it was land we should be trying to give people or shelter. Of course, the latter, shelter, being of greater importance where land availability diminishes, as it must do over time, with an increase in population.

2.45 p.m.

Mr. President, much was made about the process going through sections 3, 4 and 5 for the acquisition of land. Really, section 5 is the relevant section. That is where you get paid. Of course, while there are numerous anomalies identified in the whole system, I think what is important for the population to note is that you have to submit a claim in order to be paid. Perhaps that process could be more clearly marked out for people who suffer the burden of compulsory acquisition. Very often it is a burden, which I want to come to in a moment, but, certainly, I do not think that we ought to forget that when the State acquires lands and you get to section 5, the burden is on the person whose lands are being acquired to submit a claim for payment.

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The assumption, of course, with compulsory acquisition is that these lands are required for the public interest. That is something I think is very important for us to think about carefully because land is critical. In some cultural contexts land is like currency. It is something that passes from generation to generation. People view it almost like money, in some cases of greater value than money, because it can often appreciate, especially in island environments like ours, faster than money can. So, taking someone's land away must be done with extreme care. It is not something to be done simply because—well, at the whim of a public official far less a politician. Landholding, landownership is a very important part of our culture.

Really, it links directly to a very fundamental right in any democratic system. This is the right to property, the right to own property. So, in the conduct of its affairs, the Government of Trinidad and Tobago ought not to trample on the rights of citizens or appear to do so, as the right of property is so fundamental to that. Government always has to act with care and seek always the best interest of its citizens, which it presumes to do. It is acquiring lands because the greater public good is at stake.

This question of advantage, and, by advantage, I use the term in which we use it out on the streets, that is, being taken advantage of as an aggressor dealing with someone of lesser power. Advantage is something I think we have to pay close attention to, and, in relation to that, I would say that the determination of the public's interest has to be done with extreme care and often with consultation of the public, with the people who are affected, because the Government of Trinidad and Tobago cannot be Big Brother. We are not living out some Orwellian reality here. We are supposed to be in an environment or operating in a place where we can collaborate and we can discuss and share ideas.

So Government does not always know best. I recognize fully that the context within which we operate can allow many Government officials to feel as if they do, but Government does not always know best. It is very important that acquisition of lands, especially compulsory acquisitions, happen in a kind of atmosphere within a particular context which sees as much discussion and consultation as possible. There may be other methods to achieve the same goal that do not require you to take somebody's property away.

I am saying this because I am mindful of Sen. King's earlier presentation in this Parliament, speaking on her Motion on the State of the Economy, when she was making reference to the now objectively verifiable fact that the private sector is reducing its level of investment. The Central Bank has just recently said that we are seeing double-digit contraction in business borrowing for investment.

When you acquire lands from people who are trying to set up businesses or engage in other productive things, even though the greater good from an infrastructure point of view may be served, we have, also, to look at the competitiveness implications of these acquisitions, piece by piece, because you really cannot derail a number of private sector initiatives by taking someone's land away. We need to pay attention to that, because infrastructure projects alone are not going to save this economy. I think that the economy is in far greater trouble than the general population realizes. If the news reports are to be believed, we have lost 24,700 jobs in the last year and we have an unemployment rate of 6.7 per cent. Except, Mr. President, that is not exactly true. It is not true, of course, because the State through make-work programmes employs another 10 per cent, at least, and that is being charitable. So, our employment is actually closer to 17 per cent to 20 per cent.

To what extent can we continue to sustain that even as people lose their jobs? There is no credible economic engine waiting in the wings to take the place of oil and gas. So, what do we have? We have a situation where we are in for an extended period of economic stagnation, and it is probably going to be the 1980s all over again. I do not know what is waiting for us at the end of this. What is going to pull us out this time? This is, therefore, a very challenging time for Government and, indeed, for the country, when compulsory acquisitions affect projects that are planned or intended, projects that give people employment and add to the productive nature and capacity of the society. I think that they need to be undertaken with extreme care.

We heard, from at least one contribution here, that people whose lands are being acquired can sometimes conspire with a public official to manipulate the value of the acquired land. I think that is certainly something that can happen, but I think a far more insidious form of this corruption happens in just exactly the opposite way. That is, persons with knowledge of designs can actually go to landholders and say, "If you do not help me then I will ensure that your property is included in our design plans, and we are therefore going to take this away from you. You do not want to sell and we do not care."

I have seen one situation, Mr. President, where a design was wilfully altered, to no purpose really, other than to include some lands, and the owner of the lands was then approached by a public official who demanded a piece of land privately and, of course, there are lots of easy ways around this. So he comes with his telephone and he says, "Do not worry, you would put it on my relatives' name, they are living in Miami, and let us call them up now."

Sen. Panday: Hon. Senator, do you wish to give that information to us confidentially?

Sen. Dr. R. Balgobin: I most certainly am, and I did. I did! When the thing is refused, then what happens? Your lands are taken.

I think that is a very dangerous kind of operation that needs to be managed so that we ensure that public officials, including and very often elected officials, do not get themselves involved in activities that can pervert or corrupt the process of compulsory acquisition.

Setting aside someone's right to property is not something that should be done lightly. It is not an attack on a fundamental freedom, it is far from it. But it has legislative authority. It is still very important for people to feel that their rights have been respected. In the same way I am looking at the *Trinidad Express*, where you have people who feel—well, not feel—fundamental to any parliamentary democracy and capitalist system, would be protection of property rights and religious freedom. If, for example, there is someone who is being persecuted because they have made an expression of what they believe, I do not think that that is right. In fact, I do not think a person ought to be singled out for cost-cutting measures when we have billions of overpayments everywhere else, in the same way that someone should not be singled out to have their lands taken because they refuse to grease someone's palm. I think that it is something that we ought to pay close attention to.

I just want to bring that balance in terms of corruption, because so often over the years what I find is that there is this notion that landholders or business people are corrupt, and sometimes they truly can be victims of processes like these. If we are to revive this economy, it is not the Government that will do it, it will be business. Business has a very critical role to play, and we need to ensure that business does not feel aggrieved, feel as if they do not get a fair shake in terms of lands acquired and which lands are acquired; that we ensure that public officials do not engage in things they ought not to engage in when they go about the necessary actions or activities that surround or accompany the compulsory acquisition of lands for public interest.

Mr. President, I thank you.

Sen. Embau Moheni: Thank you, Mr. President. I must say that I have been following this debate with quite a bit of concern and I do share the concerns of Sen. Dr. Balgobin, because this question of land acquisition is a very serious matter indeed.

Land means a lot to people. Oftentimes you have land that may be handed down from generation to generation that defines family bonds, identification with the area, sense of security; oftentimes, opportunity for earning an income. On the other side we recognize the need, at times, for the Government or the State to intervene for the greater good in order to acquire land to create a common space or to create a common service that the public or the population on a broader scale could benefit from.

Notwithstanding that, however, we do recognize that land acquisition imposes on individual or individuals, thus creating a certain degree of discomfort, oftentimes inconvenience. Notwithstanding the fact that they may be compensated for such land, there are other factors that one has to take into consideration over and above the actual value of the land.

3.00 p.m.

This is why it is so important that the State, in undertaking such action, ensures that such individuals are properly compensated. I believe that such actions should only be taken when it is absolutely necessary. We talk very much about the State, but oftentimes the State may be represented by one or a few individuals wielding excessive power, which, when not countervailed by very sudden processes, can be abused.

I believe that a lot has to be done where this whole question of land acquisition, land usage and all such factors are concerned. I believe that the public in general is oftentimes unaware of their rights; they are unaware of the land usage; they are unaware of environmental issues and all these areas of information need to be given to the public so that they would better appreciate the actions being taken by the State, and they would also better appreciate when such actions are in the best interest of the public and when such actions are not.

So, first of all, the people need to be more informed. Secondly, there needs to be a greater degree of transparency, a greater degree of consultation. If you look at the process as it is right now, the balance is weighted on the side of the State, in that, the State makes a decision and that decision is enforced by law, whereas the public should have the opportunity to say, "Rather than do it this way, it can be done another way; rather than exercise that power in a particular way, it could be done in another way."

I would like to give an example from a situation which occurred in 1981 when the Claude Noel Highway was being constructed. There was a young man whom I know very well, who at that time was employed as a Works clerk with the then

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Ministry of Works and Transport, which is now the Division of Works in Tobago. When he looked at what the developers were going to do in terms of running that highway through an area in Calder Hall, destroying several homes in the process, or having to demolish and relocate families, he, on his own, without any training outside of his purview—it was not his responsibility; all his responsibility was to ensure that they carried out the works as was stated in the plan, but he went outside of his purview; spoke with the management of the then companies—I think Trinidad Engineering and Seereeram Brothers—and showed them an alternative to what was being done, where, by simply backfilling an area, the highway could have been realigned and save a number of homes. That was actually done, saving a number of homes in the process, and he was untrained; he was not an engineer; he was simply there and had concerns for the residents in the surrounding areas.

Not only that, the suggestions that he made to the company were able to save \$50 million. I say \$50 million in 1981, not 2000. He also suggested that with the savings they establish a car park and a road which would have benefited students commuting from their school to the breakfast shed.

The point I am making is that here you have an individual who was not trained, and, simply by affording him the opportunity to make a suggestion, was able to not only save homes, but in the process save \$50 million of the expenditure, and his suggestion was taken. If you go to Tobago now, by Radio Tambrin, there is what you call the Tambrin Square, the big car park; that was built from some of the savings of that \$50 million.

We need to have our communities appreciate the usage of land, the best purposes for which they are put. I know that the Town and Country Planning Division has done several policy statements, possibly about 40 to 50 such statements, which are just lying idle, if you want to say that, with the public being none the wiser.

I just want to draw reference to Tobago again where approximately 90 per cent of the developed area in Tobago was done on agricultural land, and you have other areas where such development could be put and that land is lying idle. In other words, the studies are done but for some reason or the other, whether it is a lack of will, whatever the reasons, you have the wrong uses being put to the wrong land.

I would like to advocate very strongly that we seek to somehow get it into our education system, not at secondary level or tertiary level, but at the very earliest stages where the minds of our people will be most impressionable, where they

could be exposed to the importance of the environment; the question of the lands that are available to us; how we should preserve the environment; the uses to which our lands could be put and such information be inculcated from a tender age and that the community at large could be better informed of these issues.

It is recognized that the ownership and the enjoyment of the services that come from property and land, in this instance, is a right and, as we recognize sometimes, the State impinges on that right. It really hurts me to hear the manner in which people refer to individuals or circumstances with individuals who may have suffered for years, having had their lands—if you could use the word, acquired—taken by the State. As a matter of fact, there are individuals who had to give up their property during the building of that same Claude Noel Highway and up to this day, almost 30 years afterwards, have not been compensated.

I do not buy this thing about other factors, hindrances or surveys. Yes, we know that there are factors that impede the payments being done, but you are talking about persons waiting 30, 35 and 40 years to be compensated. The extent to which the State could be considered to be just cannot just be measured in terms of what you may call the community or the nation; it has to be measured in terms of the protection of the rights of the individual. Each individual is important, and, if the State cannot protect the rights of one individual, then that State is failing.

This is why I say that there is that need for a broader intervention to protect the rights of the individual; to protect the rights of the communities. It is only when our communities are enlightened, only when we ensure that this information is not done as a campaign but on a continuous basis so that there could be that greater sense of consultation and participation, that there would be some type of balance in this situation.

You cannot tell me that you have had a government for over—during the past 54 years, 43 of those years; one party has been in office and yet you have individuals who have been suffering for well into 30 years in order to be compensated for what was theirs, to enjoy that privilege of the ownership of their property.

We need to recognize that the State wields that great degree of power, but that power must not be utilized at the expense of citizens; at the expense of even one individual. Regardless of what—I will not even use the word; I do not think it is anything short of negligence—even if we have to establish a body; even though we have to establish an institution, a board that could look into these matters to

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ensure that people's due is given to them, it should be done, but you cannot tell me that you have waited 30 years and then want to make excuses in situations where the lives of people are concerned. The rights of an individual must be protected.

The question of land usage is something that we need also to pay very close attention to. I mentioned the question of Tobago, but then you have a situation here where, in the past, agriculture has been given very low priority. As a matter of fact, in Tobago, agriculture only contributes approximately 1 per cent to the gross domestic product of Tobago and growing up I know that Tobago was an agricultural island. We were proud of exporting one million pounds of pigeon peas on an annual basis. This is the potential of Tobago, but under the last regime agriculture was destroyed.

3.15 p.m.

I support the intervention of the State where it is in the interest of the general public, but my contention is that there must be more information given to the public, there must be greater participation, and, most of all, it must be done in such a manner that the rights of the community, the rights of the individual, are protected, and when such action is taken it must be done with very great care to ensure that people are not being discommoded unnecessarily.

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

The Minister of Food Production, Land and Marine Affairs (Sen. The Hon. Vasant Bharath): Thank you, Mr. President. Over the last couple of days a number of valuable points were raised with regard to this Motion for the compulsory acquisition of 12 parcels of lands across Trinidad and Tobago and I want to deal with some of them. There was the issue of contracts raised by Sen. Dr. Balgobin on the legality of the EMBD contracts and, effectively, all I have said is that these contracts are on hold pending the new board being put in place, which is going to be done later this week, and they will determine the legality of these contracts. That was really based on the fact, as I said in the other place, that these contracts seem to have been granted in some sort of indecent haste, whereby they were all granted within the 90-day period after the election was called on April 09 through May 29, 2010. Having not granted contracts for several months prior to that, there seemed to have been some sort of indecent haste to grant these contracts. That was the basis—[*Interruption*]

Sen. Hinds: Would the Minister give way?

Sen. The Hon. V. Bharath:—for which these—[*Interruption*]

Sen. Hinds: Between April 09 through May 29, 2010?

Sen. The Hon. V. Bharath: Between April 09 and May 29, 2010.

Sen. Hinds: Election was held on May 24, 2010.

Sen. The Hon. V. Bharath: April 08, 2010. [*Crosstalk*]

Sen. Hinds: That is not 90 days?

Sen. The Hon. V. Bharath: Within the 30 days—but I am talking about within the last 90 days after the election was called—11 of these contracts, totalling \$1.1 billion, were awarded. Therefore, all we have done—we did not stop these contracts, we just put them on hold temporarily until the new board comes in, for them to determine, first of all whether, in fact, the tendering procedures were followed.

Secondly, in keeping with Government's policy of returning as much land to agriculture as is possible, we wanted to have the option of looking again to see whether in fact the lands could be better utilized in our food production thrust.

As my colleague from Tobago, Sen. Moheni, mentioned, there is no doubt that agriculture has been one of those areas that has been sorely neglected in the past, and it is an area that this new Government intends to intensify its efforts in and its thrust towards being in a position to create food security for our people and to be in a position—as we all know, Mr. President, inflation is primarily driven by food prices. So we want to be in a position where we can create enough food at a price that is affordable and that creates value for money for our population, and thereby be in a position to reduce our inflation.

Sen. Hinds: Would the Minister give way? I thank you for giving way. Your explanation in respect to those EMBD contracts, I must admit, it is a “lot softer today, but would you agree that when you presented the ideas before you did imply some sinister element to that?

Sen. The Hon. V. Bharath: That may have been in your interpretation, but it was certainly not my intention. All I have said is that we have put them on hold because it is a large amount of money and we want to be in a position to clearly understand two things:

1. whether in fact correct tendering procedures had been followed;
2. whether—based on Government's policy of returning lands to agriculture—or not we wanted to continue to put houses on those lands.

Sen. Hinds: [*Inaudible*]

Sen. The Hon. V. Bharath: Absolutely, I have said that very clearly. I am not casting any aspersions on anyone. That will be revealed in the fullness of time.

I want to also say, Mr. President, a lot of the flooding that is taking place in Central Trinidad and Tobago today is as a result of those housing projects, simply because, as the rain falls, there is nowhere for the rain to actually soak into the land as it previously did. So this is why you are having massive flooding in places like Couva, Felicity and so on, which you never had previously. It is simply because of these housing projects that have been put down. So the reason those projects were put on hold is to really determine the policy, as Dr. Armstrong talked about; the priority between housing and agriculture is to be determined as a direct result of that.

Mr. President, I shall not detain the House too long this afternoon because I know we have a very important Bill before us to debate later on. There is no doubt that the existing legislation does have some significant defects in it. It was put in place in 1994, and there are some gaps in the legislation. It is certainly bias as everyone has said. It is bias in favour of the State. I think everyone agrees it is unacceptable that if you compulsorily acquire someone's land then you need to be in a position to speedily compensate that person so they can get on with their lives.

In fact, a number of people's lives are actually on hold awaiting compensation for their lands, and sometimes it goes on for 30 and 40 years. I think it is wrong, because two Members on the other side actually attempted to blame the public servants for this matter. Sen. Deyalsingh talked about the issues in the registry for which the Minister could not be held accountable, and Sen. Hinds today said that, there may come a day, when I may hold my head and rue the very fact that at the end of the day a public servant may not do his or her job and I will be blamed for it. At the end of the day, we are accountable. The buck must stop with us. We must take responsibility as a responsible, mature Government to accept responsibility for all the charges that come to us. Therefore, I do not agree with the position at all.

There are issues due to a shortage of surveyors. I have already spoken with my Permanent Secretary in the Ministry of Food Production, Land and Marine Affairs, where we are now going to be actively seeking out the employment of additional surveyors so that we do not necessarily have to rely too much on having to farm it out to the private sector, and hopefully that is going to be in train very shortly. There is also a gap, because I believe that there is not sufficient consultation in the planning process when we are acquiring lands and, therefore,

large communities sometimes are not properly sensitized about the fact that lands are going to be acquired. Also, there is a time frame, I believe of 14 days in the law, that allows the Commissioner to enter into the lands having given 14 days' notice.

Now, you would appreciate, Mr. President, there are times, for example, when someone may be living abroad and may not be in a position to respond within 14 days, may not even be aware that the lands are going to be compulsorily acquired, and the Commissioner has the power under the existing legislation to go in and acquire those lands. So there are many issues that we need to look at. We need to also look at the issue of updating valuations. If a valuation was done 30 years ago, the price of land today is significantly different. The open market value is significantly different from what it would have been 30 years ago, even accounting for the payment of interest which, up to 1995, was 6 per cent and thereafter 9 per cent. There may be an agreement that the process—as I said in the other place—could possibly be abandoned if, after a specific period of time, the transaction has not taken place.

You see these are issues, Mr. President, that we came to the House with, not to cast blame on anyone in particular, although it was taken as such—Sen. Hinds ranted and raved a little bit. I suspect he must have gone away last week and was advised by his leader to come back here and spout a little fire. So he thought, to raise the temperature a little bit, he had to say a few things that were really out of context. He talked about the Caroni lands which the PNM used for house padding. It is a fact. They attempted to pad several constituencies across the country, not really taking into account the fact that this was prime agricultural lands. It was used for one reason and one reason only, which was to pad constituencies. He talked about putting a prison.

Imagine, Mr. President, they were going to put a prison. They were taking 40 acres of land to put down a prison on prime agricultural land. They were putting down a prison because they were driving the demand. They were creating the demand for the prison. In economics you have the pull demand when you create demand at the one end and then you put certain things in place. They were creating the demand at the front-end to be able to build these prisons. Therefore, where we are creating the enabling environment for agriculture, they were creating the enabling environment for criminality.

Every time the goodly Senator opened his mouth, it was really to replace one foot with the next, because at every step of the way he made statements that were erroneous. It is quite clear that when it comes to land issues the Senator obviously

Land Acquisition

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[SEN. THE HON. V. BHARATH]

becomes disoriented and confused. Remember when he trespassed on his neighbour's land? He actually compulsorily acquired his neighbour's land. [Laughter] He did! He compulsorily acquired 1,450 square feet of his neighbour's land for which he was sued.

The claimant said that, in 2008, Sen. Hinds entered into his lands without a licence or his consent and constructed a retaining wall. He claimed that he lost 1,450 square feet of land. Mr. McPherson said his attorneys wrote Mr. Hinds on five occasions, notifying him of his intention to institute legal proceedings. He said Hinds had failed to pay any compensation.

Hon. Senator: EMBD.

Sen. The Hon. V. Bharath: So you see where it is coming from. He is blaming the public servants—[*Interruption*]

Sen. Hinds: Mr. President—[*Interruption*]

Sen. Panday: What is your point of order?

Sen. Hinds: 35(1), I can claim, but I hope that the Minister understands that the matter is not resolved.

Sen. The Hon. V. Bharath: Mr. President, I will not speak anymore of that. When I talked about the flaw in the system, as I said, there are several recommendations that this Government has already put in place.

3.30 p.m.

The Commissioner of State Lands has already met the Ombudsman in Tobago—you would be happy to know, Sen. Cudjoe—to identify all of those parcels of land where compensation has not yet been paid with a view to settling all of those in a speedy manner. It is only a matter of time before we do exactly the same thing in Trinidad.

I have no doubt and I think there is no doubt in anyone's mind that we need to make certain changes. I will be putting to the Cabinet that we look at introducing some amendments into this piece of legislation so that it would ensure that those persons who go through the torment of having their lands compulsorily acquired would be in a position to have their compensation paid on a speedier basis.

Question put and agreed to.

Resolved:

That this House approve the decision of the President to acquire the lands described in Appendix I for the public purpose specified.

APPENDIX I

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p>1. The parcel of land comprising 94.5 square metres or 1017.2 square feet more or less, situate at the south-western corner of Bacolet and Main Streets, in the Town of Scarborough in the ward of Tobago and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 18th July, 2006 executed under Survey Order No. 11/2002 and filed in the Lands and Surveys Division;</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>A parcel of land comprising 94.5m² or 1,017.2 square feet more or less, situate at the south-western corner of Bacolet and Main Streets, Scarborough, in the ward of Tobago and said to belong now or formerly to Lennox Phillips.</p> <p>The parcel of land is more particularly shown coloured raw sienna on a survey plan filed in Book 1361 as folio 20 and surveyed under Survey Order No. 11/2002, which is filed in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p> <p>2. The parcel of land comprising approximately 741 square metres or 7,976 square feet, situate at No. 77 Seventh Street, Barataria, in the ward of St. Ann's, in the county of St. George, and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 28th August, 2009 and filed in his office is required for a public purpose: the expansion of the Barataria Health Centre.</p>	<p>The widening of the junction of Bacolet Street with the Claude Noel Highway</p> <p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p style="text-align: center;"><u>SCHEDULE</u></p> <p>A parcel of land comprising approximately 741 square metres or 7,976 square feet, situate at No. 77 Seventh Street, Barataria in the ward of St. Ann's, in the county of St. George, and said to belong now or formerly to Trevor Benjamin, Rodney Benjamin and William Iton.</p> <p>The parcel of land is more particularly shown delineated and coloured raw sienna on a survey plan filed in book 1551 as folio 25, in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p> <p>3. A strip of land comprising 3,367.1 square metres and situate at Mt. Pleasant, in the parish of St. Patrick, in the ward of Tobago described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 21st November, 2000 and filed in his office, is required for a public purpose: the construction of the Claude Noel Highway.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>A strip of land comprising 3,367.1 square metres situate at Mt. Pleasant, in the parish of St. Patrick, in the ward of Tobago and said to belong now or formerly to Cicely McPherson-Shaw and Brian V. McPherson.</p> <p>The land is more particularly shown coloured raw sienna on a survey plan filed as J.C. 181 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p>	<p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p>4 A parcel of land comprising 1,920.1 square metres more or less, situate at Lambeau in the parish of St. Andrew, in the ward of Tobago and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 13th June, 2005 and filed in his office is required for a public purpose: the construction of the Claude Noel Highway.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>The parcel of land comprising 1,920.1 square metres more or less, situate at Lambeau in the parish of St. Andrew, in the ward of Tobago and said to belong now or formerly to Cecilia Evans-Ojoe.</p> <p>This parcel of land is more particularly shown delineated and coloured raw sienna on a survey plan filed in book 1234 as folio 216, in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p>	<p>Land required for a public purpose</p>
<p>5 The four parcels of land together comprising 24.6998 hectares (61.03 acres) situate at Plymouth, in the parish of St. David, in the ward of Tobago and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 8th April, 2009 and filed in his office are required for a public purpose: for housing and Government facilities.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>Four parcels of land together comprising 24,6998 hectares (61.03 acres), known as Adventure Estate, situate at Plymouth, in the parish of St. David, in the ward of Tobago and described as follows:</p> <p>(a) 11.5644 hectares belonging now or formerly to Martin Schneider;</p> <p>(b) 0.8782 hectares belonging now or formerly to Martin Schneider;</p>	<p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p>(c) 6.0774 hectares belonging now or formerly to Chilo Rooplal Singh; and</p> <p>(d) 6.1798 hectares belonging now or formerly to Chilo Rooplal Singh.</p> <p>These parcels of land are more particularly shown coloured raw sienna on a survey plan filed as J.R. 12 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p> <p>6 A parcel of land comprising 1.9256 hectares situate at Warwick Street, Newlands Village, in the ward of Guayaguayare, in the county of Mayaro and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 1st March, 2005 and filed in his office is required for a public purpose: the construction of the Guayaguayare Secondary School.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>The parcel of land comprising 1.9256 hectares situate at Warwick Street, Newlands Village, in the ward of Guayaguayare, in the county of Mayaro and said to belong now or formerly to Mr. David Timothy.</p> <p>The parcel of land is more particularly shown coloured raw sienna on a survey plan filed as J.D. 300 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p> <p>7 Two parcels of land comprising 1,480.7 square metres and 367.4 square metres respectively, situate on the western side of the Uriah Butler Highway, in the Borough of Chaguanas, county of Caroni, and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 29th October, 2008 and filed in his office are required for a public purpose: improvement works to the Uriah Butler Highway.</p>	<p>Land required for a public purpose</p> <p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p style="text-align: center;"><u>SCHEDULE</u></p> <p>Two parcels of land comprising 1,480.7 square metres and 367.1 square metres respectively, situate on the western side of the Uriah Butler Highway, immediately north of Cunupia River Canal, Charlieville, in the Borough of Chaguanas, county of Caroni and said to belong now or formerly to Mr. Balgobin Rattan and Mrs. Routee Rattan.</p> <p>These parcels of land are more particularly shown coloured raw sienna on a survey plan filed in book 1361 as folio 63 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p> <p>8 Three parcels of land together comprising 1,566.3 square metres situate at All Fields Trace, Lowlands, in the parish of St. Patrick, in the ward of Tobago and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 19th January, 2007 and filed in his office are required for a public purpose: the construction of the Claude Noel Highway.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>Three parcels of land comprising 1,566.3 square metres situate at All Fields Trace, Lowlands, in the parish of St. Patrick, in the ward of Tobago and described as follows:</p> <p>(a) a parcel of land known as Lot 14, comprising 727.1m² and said to belong now or formerly to Norman Anthony Bishop;</p> <p>(b) a parcel of land known as Lot 15, comprising 504.9m² and said to belong now or formerly to Merlyn Kennedy; and</p> <p>(c) a parcel of land unnumbered, comprising 334.3m² and said to belong now or formerly to Norman Anthony Bishop;</p>	<p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p>These parcels of land are more particularly shown coloured raw sienna on a survey plan filed in book 1351 as folio 43 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port-of-Spain.</p> <p>9 Two parcels of land together containing 709.6 square metres and situate at No. 67 and No. 69 Oxford Street, Port of Spain, in the ward of St. Ann's, in the county of St. George and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 9th February, 2007 and filed in his office are required for a public purpose: the expansion of the Oxford Street Health Centre.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>Two parcels of land comprising 709.6 square metres situate at No. 67 and No. 69 Oxford Street, Port of Spain in the ward of St. Ann's in the county of St. George and details as follows:-</p> <p>(a) a parcel of land situate at No. 67 Oxford Street, Port-of-Spain comprising approximately 354.6 square metres and said to belong now or formerly to the estate of Egber L. Ellis; and</p> <p>(b) a parcel of land situate at No. 69 Oxford Street, Port of Spain, comprising approximately 355 square metres and said to belong now or formerly to Sorzanoville Limited.</p> <p>These parcels of land are more particularly shown coloured raw sienna on a survey plan filed in book 1361 as folio 44, in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port-of-Spain.</p>	<p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p>10 A parcel of land comprising 734.01 square metres more or less, situate at Lady Hailes Avenue, in the ward of Naparima, in the city of San Fernando and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 23rd July, 2009 and filed in his office, is required for a public purpose: the construction of the new Fire Station.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>A parcel of land comprising 734.1 square metres more or less, situate at Lot 1, Lady Hailes Avenue, in the City of San Fernando in the Ward of Naparima owned now or formerly by the Tourism and Industrial Development Company of Trinidad and Tobago Limited and leased to Federal Tyre Services Company Limited for thirty (30) years with effect from 14th November, 1995.</p> <p>The parcel of land is more particularly shown coloured raw sienna on a survey plan filed in book 1551 as folio 47 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port-of-Spain.</p> <p>11 The parcel of land comprising 123.7977 hectares (305 acres, 3 roods, and 24 perches) more or less, situate at Moriah in the parish of St. David, in the ward of Tobago and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 28th January, 1982 and filed in his office, is required for a public purpose: the management and protection of the Courland Watershed.</p>	<p>Land required for a public purpose</p> <p>Land required for a public purpose</p>

DESCRIPTION OF LAND	PUBLIC PURPOSES FOR WHICH TO BE ACQUIRED
<p style="text-align: center;"><u>SCHEDULE</u></p> <p>A parcel of land comprising 123.7977 hectares (305 acres, 3 roods and 24 perches) more or less, situate at Moriah in the parish of St. David, in the ward of Tobago and said to belong now or formerly to Reginald Morshead.</p> <p>The parcel of land is more particularly shown coloured raw sienna on a survey plan filed as D.E. 68 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p> <p>12 A parcel of land approximately comprising 404 square metres or 4,349 square feet, situate along Shirvan Road, in the parish of St. Patrick, in the ward of Tobago and described in the Schedule and coloured raw sienna on a plan of survey signed by the Director of Surveys and dated 23rd July, 2009 and filed in his office is required for a public purpose: road development.</p> <p style="text-align: center;"><u>SCHEDULE</u></p> <p>A parcel of land comprising 404 square metres or 4,349 square feet, situate along Shirvan Road, in the parish of St. Patrick, in the ward of Tobago and said to belong now or formerly to Denyse Wallis and Gail Kelshall.</p> <p>These parcels of land are more particularly shown coloured raw sienna on a survey plan filed in book 1551 as folio 46 in the vault of the Lands and Surveys Division, Old General Post Office Building, Wrightson Road, Port of Spain.</p>	<p>Land required for a public purpose</p>

PETROTRIN PENSIONS (NO. 2) BILL

Order for second reading read.

The Minister of Energy and Energy Affairs (Hon. Carolyn Seepersad-Bachan): Thank you, Mr. President and hon. Senators. I beg to move,

That a Bill to restructure the pension arrangements of the Petroleum Company of Trinidad and Tobago Limited, be now read a second time.

Hon. Senators will recall when this Bill was read in the other place, I stated that it sought to merge seven pension plans currently administered by the Petroleum Company of Trinidad and Tobago Limited. With the passage of time in the energy industry in Trinidad and Tobago and with the sector's growth and expansion, a number of mergers and acquisitions became necessary and were pursued. All those companies are now together under one name, Petrotrin. With the mergers and acquisitions that took place, however, the pension arrangements from the original companies remained separate and up to today remain separate in their operations.

With this Bill, the intention is to combine all of these pension plans into one arrangement that would make access to funds an easy process for pensioners and also would ensure that effective management audits and protection of these funds could be facilitated and monitored in a centralized manner.

These separate pension plans—and there are eight such plans:

1. Trintoc Non-Contributory Pension Fund (NCPF);
2. Trintoc Contributory Pension Fund A (PFA);
3. Trintoc Contributory Pension Fund B (PFB);
4. Trintoc Employees Benefit Plan (EBP);
5. Trintoc Staff Retirement Plan (SRP);
6. Trintopec Employees Pension Plan (EPP);
7. Trinmar Limited Employees Benefit Plan (Trinmar EBP); and
8. Trintopec Staff Pension Plan (SPP).

These plans together have approximately 5,700 pensioners and 4,400 active members and deferred pensioners. As a result, approximately 10,600 citizens are impacted today by this Bill. More than that, these plans combined amount to \$7.25 billion of people's pension savings. The sum total of all these pensions is almost on par with the deficit of our nation following eight years of merriment by those opposite known as “Club Treasury”.

The Trintoc Non-Contributory Pension Plan, the NCPF, is an approved plan under section 27 of the Income Tax Act, Chap. 75:10. The plan, ratified with pre-1963 legislation, today is a pension plan in the meaning of the current provisions of section 28 of the Income Tax Act.

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The NCPF closed to new members in 1963. Its current membership comprises 125 pensioners. The other seven plans were approved under section 28 of the Income Tax Act. These plans have not been formally closed to new participants.

Mr. President, we are today attempting to rationalize and combine these pension arrangements. As I stated in the other place, all of our efforts; all of our thinking, debating and discussions must be focused on what we in the People's Partnership refer to as a fair deal for all the people.

Life begins at 60. This is the People's Partnership's belief. This Bill carries with it strength to affect the lives, livelihood and the very survival of real men and women. When our energy booms—and yes, I say when our energy booms because we had two such booms—reached their highest, the men and women who carried the sector on their shoulders are the ones who would be directly affected by this Bill. These are the same men and women who shouldered the burdens of the sector during the slumps, restoring its strength, sustainability and stability.

When this Bill was read in the other place, the Opposition Chief Whip was indignant at the boldness of the People's Partnership to itemize their consistent failures with regard to this Bill. Under the previous administration, this Bill lapsed once and before that was urged and placed in 2007 and did not come to fruition. There was no care or consideration for the people who were depending on the government to protect their pension savings. That is the government of the People's National Movement, one which does not care for people and their pensions.

The Opposition Chief Whip proceeded to discuss what, in her words, the caring party did, meaning the PNM, since 1969. Since 1969 they were not even able to bring a small matter like this, a simple one, to this Parliament.

I refer again to a document “Synopsis Progression of Merger of Seven of Petrotrin's Eight Pension Plans”. I quote at page 2.3:

“The implementation of these improved benefits resulting in an actuarial deficit as at September 30, 2007 for one of the plans caused by:

- (a) payment of improved benefits as agreed with the OWTU; and
- (b) promotion of hourly-rated employees who were transferred from the employees benefit plan, the employees pension plan and fund B, to this plan.

The surplus proved insufficient to cover these new expenses. The transaction lacked the corresponding transfer of asset values to match liabilities which were already transferred to the said plan. As a result, approximately \$22 million per annum would be required from Petrotrin to make good on this deficit.”

There is more. This matter began in December 2004 with an exchange of data between the company and the Minister of Finance. By September 2007, the major terms of the trust deed and rules and vesting Bill were completed. The main terms of the vesting Bill as contained were also completed.

During 2007, it was agreed between Petrotrin and OWTU because they could not wait any more and did not have that Bill enacted in 2007 as proposed. They urged, and it was agreed between Petrotrin and OWTU, that the remaining enhanced benefit would be implemented even though the merger was not finalized in good faith. They went ahead and implemented the enhancement benefits and Petrotrin had in 2007 a \$2 million deficit.

On October 21, 2008, Petrotrin again wrote to the Permanent Secretary seeking assurance to affect the proposed merger by way of legislation. This assurance was required to provide comfort to trustees and Petrotrin's external auditors as one of the plans continued to be in deficit.

It is envisaged that the deficit would be assumed by other plans upon the merger of the seven plans into one. In addition to the deficit, Petrotrin also advised of the accounting requirement for its pension plan surplus which is assessed in accordance with International Accounting Standard 19 and is determined on the basis that the pension plan merger will go ahead. That is on the post-pension plan merger basis. Therefore, if the merger is not effected, Petrotrin's external auditors will assess the surplus of the financial statements of 2007/2008 by auditing each plan individually resulting in the amount assessed being several hundred million dollars lower. This would be the impact.

From February 2009—2010, Petrotrin's law department worked assiduously with the Chief Parliamentary Counsel and with respect to the finalization of this draft vesting Bill submitted this Bill for parliamentary approval. I now close this issue.

In light of the auditors concerns, Petrotrin, by letter dated November 16, 2009, advised the Minister in the Ministry of Energy and Energy Industries of the possible impact of the non-merger of Petrotrin's pension plans and the impending effects it may have on Petrotrin's balance sheet. We are all aware of Petrotrin and

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its problems. We all recall the poor governance that took place at Petrotrin resulting in a cash strapped company, one that is heavily leveraged. A request was then sent to the Minister, before prorogation, for his urgent attention and intervention in having this Bill placed before the Parliament for consideration.

Consequently, the Bill was introduced in this august Chamber on January 26, 2010. The Bill was passed with the requisite constitutional majority on March 16, 2010. We all know what followed after March 16, 2010. The rest is history. The Bill lapsed.

Let me reiterate the urgency of this Bill based on the current information. I have in my possession another letter by the current President of Petrotrin dated November 01, 2010. It says:

“If the enactment of law to provide for the merger of the plans does not take place, a significant portion of the surpluses that are established by our actuaries and which have been recognized in our financial statements, stand to be reversed.

Our actuaries, Bacon Woodrow & de Souza Limited, carried out a ‘recoverability test’ under the International Accounting Standards...19 on our 2009 financial statements in order to establish the effects of a failure to merge the plans.

Without the merger, the recoverability test would have to be carried out separately for each of the Plans to be merged and would restrict the amount of surplus to be recognized from \$1,752...million to \$957...million. The difference of \$795...million would be removed from our 2009 Balance Sheet.”

I am told that as we stand here today that amount has gone to \$900 million. In fact, what happens as a result of this is that the covenanted financial ratios on the long-term debt agreement would be adversely affected as a result. I could not understand and I thought I should make this point that a caring People's National Movement which had so much to do with Petrotrin, so many failed projects, such a huge debt situation, did not think that this was important under such a board of directors that had such poor governance practices and has left this administration with a mess to clean up.

This is the caring party those opposite referred to. This is not caring; it is callousness and a blunt refusal to take responsibility. Let me further break down for this honourable Senate to see the real lives this Bill would impact. The Trintoc NCPF has 118 citizens.

3.45 p.m.

Trintoc's Fund A—87 active, 27 deferred, 230 pensioners, resulting in 344 citizens; Trintoc Fund B—356 active members, 62 deferred, 300 pensioners, resulting in a total of 718; Trintoc Fund B—1,443 active, 292 deferred, 2,662 pensioners and a total of 4,397; Trintoc SRPs—1,262, 80 deferred, 1,231 pensioners, resulting in a total of 2,573. These are the kinds of numbers we are dealing with. This, in the words of the Opposition Chief Whip, is what we call the caring PNM and they have been ignoring it since 2001.

These are simple, straightforward and urgent people issues; the very kind of issues they had no interest in, yet the People's Partnership has brought this up very early in its legislative agenda. This has been for one reason, because it is important for the people. They need this.

I should add that labour was involved and given every opportunity to share their own feelings and ideas and make their own proposals. Petrotrin and the Oilfields Workers' Trade Union entered into agreements as far back as 1990 and 2003, in an effort to harmonize the pension plan.

In 1998, the OWTU proposed an approach relating to the harmonization of the Petrotrin Pension Plan, known as the Harmonization Agreement, which incorporated:

1. harmonization of the administrative provisions of the Petrotrin Pension Plan;
2. harmonization of the amendment power under each plan; and
3. benefit improvements, including that pensions be guaranteed for 15 years.

Changes to this agreement were made effective from July 01, 1998. The purpose of a unified pension agreement was to facilitate a common benefit formula across the different pension plans and, indeed, provide common benefits for all members.

I do want to commend the OWTU. On December 17, 2003, Petrotrin signed a memorandum of agreement with the OWTU that introduced a number of further benefit improvements and merger of the pension plan. The cost related to the improvements and integration of the plan would be absorbed by the surpluses for the various plans. As a result, I hold this memorandum here today and I really want to compliment the OWTU and the leadership of the OWTU for taking this step forward. As a result of this memorandum of agreement, the following benefit improvements were implemented in good faith, as I indicated before. I want to indicate some of these benefits. These include:

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- the surviving spouse's pension of 50 per cent for death after retirement—what happens here is that there was a period of 15 years, and, after the death of a member, the spouse would only be entitled to the remaining period of that 15 years. They are now guaranteed for life.
- a minimum pension increase for pensioner of \$200 per month.
- A death-in-service benefit of four times the annual salary plus return of members' contribution, with interest.

Where the member would have been eligible for a pension at the date of his death—that is the one I just mentioned—in lieu of a refund of contribution, the election of his spouse's pension.

Further to the memorandum of agreement with the OWTU, it also provided for three other improvements following the merger of the pension plans:

- an actuarial rate of 2.15 per cent;
- a computation factor of 233.3718 per cent; and
- a death-in-service benefit four times—the one that I just read—with respect to the salary, plus return of members' contribution with interest.

The People's Partnership is committed to a social security system that guarantees to retired persons a decent and comfortable life. This is not a favour we are doing anyone. This is what a government has: a responsibility to provide to the people who have provided yeoman service to their country. In taking responsibility, however, we recognize that we are here to facilitate and provide the enabling and stable environment. The rest must be without Government control.

Having said that, I wanted to bring to the attention of this Senate that there was a letter, since the last reading of this Bill, sent by the Oilfield Retirees Pension and General Workers Association. It does make some objections to the merger of this Bill. In the interest of transparency, I thought I should raise the issues and address them. The Oilfield Retirees Association is made up of some members of the Employees Benefits Plan, which emerged from Texaco. It is a defined benefit plan. All retirees have got the benefit of the proposed merged plan, including these association members.

They claim, for example, that it is because we are asking for a constitutional majority. I want to say, as debated in this Senate earlier this year, it was a recommendation by the union, to the then government, that this Bill be passed

with a constitutional majority, so that it will not be challenged in a court of law. That is the extent of it. I think the association is misguided. The constitutional majority—when this Bill is passed, all that has been done by this Government—is to ensure that the legislative framework is put into place to allow for effective governance of this plan and, therefore, to allow the new trust deed and rules to come into effect. After that point, at no point in time does the Government influence the plan or has any control on the assets and liabilities of this plan. In fact, that will be the subject for the investment managers and trustees.

They indicated the asset values and they referred to the surplus on their plan of \$200 million. This is a matter that has gone to the courts and the courts have rejected it. However, I want to say that my information from Petrotrin is that they have met continuously with this particular group. This is not a plan that is part of the merger. I think we need to get that very clear for the Members opposite. I know this letter went to the President of the Republic of Trinidad and Tobago.

NPSA is not one of the second plans. Therefore, there is no request for a merger, so let me just rule that out very quickly. In effect—as part of this letter, I know copies probably went to the Independent Senators, Petrotrin Pensions Bill, as they indicate, in 2010—they claimed and I wanted to refute this—which is this Bill before us, will effectively deny the members and pensioners of plus \$9 billion of their money, which can be utilized in part to improve pension benefits and place it in the hands of the Government and their handpicked bunch. That is just rhetoric.

Enhanced benefits have been implemented, as we said, in good faith, as done by the memorandum of understanding between the OWTU and the company. It is inaccurate to say that they will not allow access to their surplus. In fact, that has gone into place in good faith. I also want to say, for the record, that the trustee for this plan, the new plan, will be Republic Bank Limited and the investment managers would be First Citizens Bank, RBTT and Republic Bank.

In addition, I just wanted to state, again, and also compliment the OWTU on the new trust for the merged plan, the Petrotrin Employees Pension Plan, the trust deed and rules and to state, however, that this is a superior plan, compared to the trust deed and rules of the existing plan. I really want to speak to the issue of the surplus because, a lot of the times, I think we are misguided as to what a surplus represents in the pension plan. People feel that they have access to a surplus. What happens is that, in effect, the surplus is not paid out to pensioners. The surplus will only come into effect when a plan is being wound up or if there is the cessation of a contribution to the plan.

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In any event, most of the times the surplus is paid out to your investment managers and the trustee. In this particular case, I thought I should highlight that, in the event leading to the determination of this plan, what happens here is that, in the trust deed and rules, there is no place for a pension holiday, meaning that there can be no stoppage of contributions and it does not allow for the decrease in contributions. In the event that this company has to be wound up, that is the only way that you will have the termination of the plan. In such an event, what is very much improved in this particular case is that there would be the continuous purchase of annuities going forward to ensure that the pensioners are protected, so, at the end of the day, the surplus would be translated or converted to annuities to protect the pensioners.

I should also mention that Petrotrin shared this trust deed. This is one of the other allegations made; that the trust deed and rules was not registered with the Board of Inland Revenue and it cannot be until this Bill is passed. Once this Bill is passed, then it will be registered with the Board of Inland Revenue. Petrotrin has shared this document with its actuaries and it has sanctioned and has been costed to assure that all current benefits are taken care of.

With this Bill here today, we seek only to establish the plan. It does not try to legislate the terms and conditions that govern the pension arrangements for the plan's members. It deals with the establishment of a new plan and protection of the rights and benefits for pensioners. The merger will be given effect by transfer of the assets of the seven pension plans to the new pension plan established under statute. The Bill also provides for the winding up of these seven plans. The Bill contemplates that, as with any other pension plan, the plan's terms and conditions of operations will be governed by a trust deed and rules. In this regard, the trust deed and the rules have been completed and the trust deed has been executed with the trustee and will, therefore, be in effect at the time that the Act comes into force. I will now take the opportunity to go through the specific clauses of the Bill.

Clause 1 of the Bill sets out the short title as the Petrotrin Pension Act 2010.

Clause 2 of the Bill provides for the effect, even though inconsistent with sections 4 and 5 of the Constitution.

Clause 3 of the Bill speaks to the commencement of the Act for which this is the Bill.

Clause 4 of the Bill provides for the interpretation of certain words and phrases; in fact, it also defines the seven plans and the dates for the establishment of the trust deed and rules for each of these plans.

Clause 5 of this Bill establishes a new pension plan that would be governed by a trust deed that will be in effect at the time the Act comes into force.

Clause 6 of the Bill will transfer a participant of an existing plan, together with his or her pension rights, from the plan to the new plan, as well as transfer pension rights and corresponding assets held by the trustees of existing plans to the trustee of the new plan. Further, the clause will also transfer to the trustee of the new plan the liabilities of the trustees of the existing plans, as well as those of an employer under or in relation to an existing plan.

Clause 7 of the Bill provides for the winding up of the existing plan by the trustees and for the discharge of those trustees.

Clause 8 of the Bill provides for the non-application of stamp duty in accordance with the Stamp Duty Act, Chap. 76:01, to the transfer and vesting of assets of the existing plans in the new plan.

This is a simple Bill. It was passed in this august Chamber with the constitutional majority. I see no reason why we cannot deal with this matter with a sense of urgency, the unification stance to give immediate benefits through greater stability, increased financial viability, a reduced likelihood of deficits and also a much decreased likelihood of increased contributions.

4.00 p.m.

The unification proposed can significantly improve benefits for both current, as well as retired members and benefits for all members will be evenly funded and administration costs would be reduced through the elimination of duplicate functions and organizational inefficiencies.

Mr. President, this is how the People's Partnership will continuously live up to its commitment to the people of our country; by holding the right priorities, by appreciating what affects citizens most and by harnessing the competence and know-how to deliver what the people want.

Mr. President, I beg to move.

Question proposed.

Sen. Dr. Lester Henry: Mr. President, thank you. I will just have a brief intervention in this debate since the Bill is something that both sides have agreed to support and, therefore, there is not a great deal of contention in the matter of the Bill itself, but we will use the opportunity to discuss what I think are some of

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the critical issues affecting the issues of pension and pension fund arrangement in the country, and also look at some of the dangers facing not only the Petrotrin Pension Fund but other persons who have money in any form of pension in this country today.

Now, we know that the issues of pension in recent times have taken on a fairly global dimension, in the sense that you had the issue in France where there was a tremendous upheaval over the raising of the pension age by President Sarkozy and so on. It caused much social unrest for a while. Over the last few days, we had the BBC people going on strike over pension issues. They were running rerun programmes since their staff was on strike.

We also know, coming back closer to home, that the People's Partnership got into some hot water with their \$3,000 pension across the board for age 60. Before I really get into some of the issues in terms of what the local situation is with pension and in terms of the Petrotrin plan and the Bill itself, what we have in this country is a fairly outdated and somewhat antiquated approach to pension plans and so on.

Now, the Central Bank did a report late last year with respect to the issue of pensions and so on, and they arrived at a number of conclusions in terms of where we are and in terms of the legislative and regulatory framework for governing pensions in this country.

First of all, we have the Insurance Act and the pieces of legislation that deal with pensions. They are primarily two: one is the Insurance Act and the other is the Income Tax Act. The Income Tax Act generally deals with how they file their accounts and so on. The provisions are generally inadequate with regard to registration requirements and the filing of these or winding up of pension plans.

Now, the Income Tax Act focuses mainly on tax exemptions and so on. Now, neither of these Acts is really relevant or adequately addresses issues such as governance, prudential regulation, supervision of plans and protection of the rights of plan members and so on. So we need to bring these things into focus in a general sense.

A lot of the legislation that plans go by now, in terms of establishment and governance, has been established from 1969 in one case, and in another case I think the Trustees Ordinance was enacted in 1939. So although a new Trustees Act was drafted in 1981, it has never been enacted properly. So what we are facing in the country is a very loose and antiquated approach to the governance of pension plans which we need to address.

The Bill is important and, as I said, we are supporting it fully, because pension plans play a critical role in most economies, because of the volumes of money that are typically involved. For the individual, it means the potential to live a comfortable lifestyle after their working days; to the employer, it could be very useful in terms of retaining qualified and highly valued employees, because they believe they can retire and get something quickly and substantial at the end of retirement and so on; and to the economy as a whole, the pension plans represent a pool of savings that could provide funds for investment in other parts of the economy. As we know, in many jurisdictions, pension funds provide a fairly large sum of funds that can go in, and, if properly utilized, help other parts of the economy develop with strong investment projects and so on and, of course, it aids in the growth of the economy when people in their retirement years are still able to spend, that is, consume at a relatively high level. So, we know the importance of this, and that is why I am saying that, because of the importance of pension funds, we really should update our legislation and have proper governance structures put in place not only at Petrotrin with the Petrotrin plan, but in general.

Historically, we have heard some speakers speak about the fact that the PNM government did not care and so on, but what I would just take a little deviation from my major points to point out is that the whole existence of Petrotrin and the companies that preceded it to a large extent was as a result of the astute leadership of Dr. Eric Williams back in the day. [*Desk thumping*]

I would just like to quote from the book *Forged from the Love of Liberty: Selected Speeches of Dr. Eric Williams*. [*Desk thumping*] I just have to call his name and you all melt. Now, the thing is that you say that you care, but you would have nothing to care about if it was not for the actions of the late, great Dr. Eric Williams. [*Desk thumping*] He points out that in the Trinidad context—he was setting the scene back in the 1970s for what was happening in the oil industry worldwide, and talking about the problems of nationalization and so on, and he was being urged to take action to do something about the energy sector. He said:

“...in order to keep your people employed and in order to satisfy, as the workers at the Point Fortin refinery would know, the range of products, we produce in Trinidad and Tobago which could not be supplied entirely from the indigenous oil that we produce, the indigenous oil that is more highly priced than some of the oil that we import.”

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So we import cheaper oil to keep the refineries going to save the jobs. He went on to explain his priority and so on, in terms of protecting the employees in these areas. He goes through—of course, I cannot read more of the book—but just to let people who may have been sort of misled with respect to the whole history of saving these companies and bringing them into the modern era—this is it.

Unlike the other side, I may not be quite as biased and disingenuous, I would also credit the OWTU for their actions in helping. We are not averse to that. We know the struggle of the OWTU in helping to bring the company to the point where it has some of the best working conditions of any oil workers in the energy sector anywhere in the world. [*Desk thumping*] Are you not applauding that?

Sen. Hinds: He cannot bring himself to doing it. He may lose his senatorship. He might get fired like Fazeer.

Sen. Dr. L. Henry: You could be generous to yourself. [*Laughter*]

Sen. Hinds: He might get fired.

Sen. Dr. L. Henry: I mean, it is clear, the energy sector workers—in fact, those are not my words. I am sure you know where the words came from.

Hon. Seepersad-Bachan: No thanks to the PNM.

Sen. Dr. L. Henry: Oh yeah! So how did the companies exist? Mr. President, we do not have to struggle. It is not a problem. We know that the company has problems, but what I would like to hear from the Government and so on—one of the problems, of course, is the potential issue of overstaffing. We know that there have been claims of overstaffing at Petrotrin, and whether we would see any reduction in the levels of employment at Petrotrin, because we have had some notion that the labour cost at Petrotrin could be as high as 50 per cent of expenditure, whereas internationally with oil companies and so on the average is around 30 per cent or so. I am not advocating one way or the other, but I would just like perhaps, when my colleague on the other side speaks, he may address that issue. I am quite willing to hear what he has to say on it.

If you look at the current state of the fund, the Minister just quoted a letter there and it mentioned \$9 billion or something like that, but if you look at the fund from the annual report under the pension plan, in September 2008 a figure was listed as \$8.4 billion. The hon. Minister of Labour and Small and Micro Enterprise Development mentioned in July in his contribution that he had a figure of \$7.2 billion—he said as of July. What that shows is a drop of about \$1.2 billion

in the fund. I did not have time to do any investigation to find out what has caused the change in the valuation. Is it because of the downturn in the economy or some other factor that may have been at play? So, I am not casting aspersions on anyone. I would just like to know what was the explanation.

Also in terms of what I think is a more critical point for pension issues in the country is the impact of inflation. One of the things that we must guard against is a tremendous erosion of the value of people's pensions brought about by inflation. I have some actuarial figures which could frighten you if you look at how inflation affects pension plans.

4.15 p.m.

To quote a couple of numbers, a monthly pension of \$800 for a person aged 35 years leaving a pension plan, on a basis of just only 6 per cent inflation, will be worth \$186 by the time he reaches 60 years. That is tremendous. Even worse yet, it will be worth \$139, that \$800, if the person retires at 65. The cumulative inflation in the age 60 case would have been 330 per cent. In the case of the 65 age retirement, cumulative inflation would have been 470 per cent.

The reason I take the time to give you these numbers is that as a nation, as a country, sometimes we may not understand the full impact of something like inflation, especially the average person out there. Even to some of us who are economists, it is rather shocking in terms of what happens. We have not really updated our legislation to keep track of and to protect our citizens, especially persons who may have left a pension plan and, therefore, may not have kept up their wage increases. Of course, if they left the plan, they would not be getting any wages, so they would be having a difficult time maintaining any kind of increases that would keep them in good standing when they finally collect.

State pensions in all the developed countries have moved to give full inflation protection. Regarding pension plans in the Caribbean, Barbados has also legislated full inflation protection and certain adjustments to their national insurance for pensioners. We have not gone that route yet; we still have been mired in the outdated legislation that I talked about. We have not updated to give our pension plans full inflation protection, which is the direction we should be going.

My final point, basically, is to let the Government know that is one of the things they should be working on. Also, it does not matter how good your laws are, even if you include inflation protection, which we should have, pension funds

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have to be invested somewhere, in order to make a viable rate of return, so people would be able to get a reward at the end of their working lives.

The one problem we have with this Government is that, at the rate they are going, there will be nothing to invest in. Where will all this pension money go? Because of the kind of erosion of confidence in the economy that we have seen since May, we are wondering to what extent the Government would get enough confidence back, get enough investment and projects going, that people would feel safe to invest in instruments that would result in the appropriate level of reward for people when they retire.

I thank you, Mr. President.

Sen. Basharat Ali: Mr. President, I would like to make a contribution on this subject of the Petrotrin Pensions (No. 2) Bill, 2010, which is before us, because so far I have only found generalities from most people, certainly from my friend in front. I would like to speak to specifics, because so far everything has been like a shopping list.

If you go to “existing plan” on page 5 of the Bill under “definition”, you see the list and I would like to address those. That list (a) to (g) represents the blood, sweat and tears of more than 50 per cent of the workers of the oil industry. Remember last year we celebrated 100 years of commercial oil production. If hon. Errol McLeod was here I would have recognized him, because he is one of the persons recognized as a pioneering hero of the oil industry, of commercial oil production. If I put aside my modesty, I would say that I am the second person recognized in that capacity. [*Desk thumping*]

I would like to put some flesh on the bones of all these existing plans which are listed in the Bill. I will start by going to the numbers as they are given here:

“(a) the Non-Contributory Pension Fund established by the trust deed and rules dated 23rd November, 1951;”

That started as a Shell non-contributory pension fund; that was a subset of a Shell Trinidad Limited Provident Fund. I know, because I was a member of that fund and I will explain it to you, for what it is. [*Desk thumping*] In 1963 that fund was there. I came back to Trinidad in 1958. I was a Shell scholar, so I came straight into the Shell world. [*Desk thumping*] I had trust deeds of the Shell Trinidad Provident Fund and I had trust deeds of this Shell Trinidad Non-Contributory Pension Fund. That is the first fund listed here. They call it the Trintoc Fund, but that is where it originated. That is why it is November 23, 1951; that was before I

went away to university. I was there in 1952. I left school in 1952 and went to Point Fortin as a trainee and then I went to university. So I am part and parcel of all this, that is why I say that my blood, sweat and tears are also in this.

As I said, (a) is a subset of that Shell Trinidad Provident Fund. In 1963 the then Minister of Finance in the PNM government, Mr. ANR Robinson, decided that fund was no longer eligible for treatment as a pension scheme. In fact, this is why the membership was frozen. I believe the hon. Minister said so, that the membership was frozen in 1963, but all those who were in the fund at that time remained and were contributing up to 10 per cent of their salary, matched by Shell Trinidad. That is why it became a provident fund. This (a) is a subset, because you had to be a member of the provident fund to be eligible for this non-contributory pension fund. That is a fact of life.

I was in that fund until 1973. I was just 40 years at that time, therefore, Madam Minister, for me life began at 40, not at 60, so that is why I am saying all this. I know because I left Shell, on my own accord. I did not get fired. I collected then my provident fund free of tax and the Shell contributions to it. That was the basis on which I came to Port of Spain into the Ministry of Petroleum and Mines as a contract officer, as a chemical engineering specialist, as they called me then. That is where this non-contributory pension fund comes from.

Then, because that fund was frozen, Shell found itself in a very strange position. They had no pension scheme to offer to new recruits for the senior staff level. The professionals who were joining them now had to wait until they could formulate the whole plan, which then is the contributory pension fund A. Contributory pension fund A was established, as you see here, by the trust deed and rules dated July 24, 1969. So it took, virtually, six years to get that in place. I know, because when the contributory pension fund A was put into place, those of us who were still there were given the option to stay on the provident fund, because it was a frozen fund, and retire at age 55, or join this fund and retire at age 60. I think almost every professional that I knew chose to stay in the provident fund and to retire at age 55. This is what these things are.

With respect to the Contributory Pension Fund A, the last person in the Provident Fund would have been 55 in 1995 and so that fund was closed off then. Since 1995, there has been no provident fund member. The only persons there would have been persons who were receiving pensions under the non-contributory pension which is (a) here. This is why I get up here to speak, because any of them who are in that fund right now has no representation, in fact, because they are all

pensioners. Who is going to stand for them? Nobody; that is what it is. So that is (a). I will go quickly through them—pension fund A, which is item (b).

Item (c):

“The Contributory Pension Fund B established by the trust deed and rules dated 13th July, 1967;”

That was two years before pension fund A. That was one for the Shell Trinidad hourly and weekly-paid employees. That would have been negotiated through the Oilfield Workers' Trade Union. I see my friend, Sen. Abdulah, shaking his head in a positive way. That is a fact; I know that; I was there when all that happened. That fund B is also a Shell Trinidad fund. So those (a), (b) and (c) are related to Shell Trinidad Limited.

On August 31, 1974, that was one year after I left Shell Trinidad, the Government negotiated to buy Shell Trinidad Limited—not the assets, the company—on that Independence Day. That was the day the flag went up in Point Fortin for the first State-owned oil company called Trinidad and Tobago Oil Company. That was where Trintoc was born, but it took a long while to get that into place.

We often hear of the vesting Acts, and that was why I took this volume, because this was the first vesting Act, vesting of the assets of the company. That is Chap. 62:05, Trinidad and Tobago Oil Company Limited Vesting Act, going back to 1981. So between 1974 and 1981, that is seven years, one wonders why it happened. The problem was that Shell Trinidad was a United Kingdom (UK) company. The shareholders of Shell Trinidad were called Shell Transport and Trading and Royal Dutch.

The first thing that government had to do was to form a company called the Trinidad and Tobago Oil Company, incorporated in the UK, so the shares could be transferred to them. That is the first part. [*Interruption*]

Mr. President: Senators, it is now 4.30 p.m. We will take the tea break and resume at 5.00 p.m. The sitting is now suspended until 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. President: When we were last here, Sen. Basharat Ali was on his legs and I believe he has another 34 minutes to complete his contribution.

Sen. B. Ali: Thank you very much, Mr. President. I will continue straight from where I left off. I was speaking about the Trinidad and Tobago Oil Company Limited Vesting Act, Chap. 62:05. I said then that it took that length of time because Shell Trinidad shares in London were made up, presumably, of Shell Transport and Trading and Royal Dutch, and that had to be transferred to a new company which was set up, and that was called, the same name, Trinidad and Tobago Oil Company Limited.

This is why the vesting Act is to vest the undertaking of Trinidad and Tobago Oil Company Limited, a company incorporated in the United Kingdom in Trinidad and Tobago Oil Company Limited, a company incorporated in Trinidad and Tobago. So the UK company vest in the Trinidad and Tobago company, which is what Trintoc is. Importantly, the vesting is of undertaking, to vest the undertaking of the said United Kingdom Incorporated Company in the said Trinidad and Tobago Incorporated Company. The definition of undertaking is important, because undertaking means all assets, liabilities and obligations of the company, including those set out in the Schedule, if you look at Part II of the Schedule it says, “liabilities and obligations assumed”.

So, this is a clean transfer, and I particularly want to say that because Shell Trinidad had taken up or had the obligation of a non-contributory pension fund, for example, Shell Trinidad also had the Pension Fund A and B, so they would have had to make sure that those were properly funded in the transfer to Trinidad and Tobago Oil Company UK incorporated to Trintoc locally incorporated.

I think it is important to say that, because the next two companies that I want to talk about will be on the list, (d) and (f), the Employees Benefit Plan established by the Trust Deed and Rules, dated June 23, 1966 and the Staff Retirement Plan established by the Trust Deed and Rules, dated April 26, 1968. I am saying that because these two plans were the Texaco Trinidad Incorporated Plans. Why are they here? Because, in 1985 the Government bought out certain of the assets of Texaco Trinidad Inc. So, that is why these two plans are here, they are called Trintoc plans, because when Government acquired Texaco Trinidad assets—never the company—and hopefully, the liability, but that, I am not sure, because Petrotrin Vesting Act, Chap. 62:06—and I am not a lawyer, I am not an insurance man, but at least I read.

If we go to that vesting Act, and it says,

“...to vest certain assets of Texaco Trinidad Inc. in the State”, and it refers to:

“Whereas by the Heads of Agreement dated 30th March, 1985 between the Government...and Texaco Trinidad Inc. (hereinafter referred to as Textrin)”, et cetera, and it goes on and on at that “Whereas”. Those agreements were laid in the House of Representatives and in the Senate on July 05 and 09, 1985, respectively. Once again I want to stress that it is a vesting of the assets. The assets are listed in the Schedule at Chap. 62:06, the refinery—it is right there—and other property includes the clubs; the Carib Valley, the hospital, Pointe-a-Pierre Golf Course, the Brighton Club, the Brighton Golf Club, and such like things. Land producing facilities are listed there—Eastern District Fields, Central District Fields and Western District Fields.

Mr. President, I do not know how the question of the liabilities, in terms of these pension schemes would have been addressed. I was a part-time member of that negotiating team, but I was really spending my time on the refinery assets. I am not aware of the Heads of Agreement which was signed, as indicated here, in March of 1985. I understand from good sources that Texaco Trinidad left us short in terms of the pension liabilities, and government had to step in then to make up those liabilities. So this is an important thing and I cannot verify it. I have been told so.

The reason probably is because these were only the vesting of assets. Those Heads of Agreement would have been the ones that contain what their liabilities are. I do not know, I have never seen those, but, certainly it is here in the record. It should be in the record of the Senate and in the record of the House of Representatives, those two Heads of Agreement between Texaco Trinidad Inc. and the Government of the Republic of Trinidad and Tobago. That is where these two plans come from.

Let me go on, because I have a fair amount to do other than this list. Let me go next, having done the (d) and (f), to the Employees Benefit Plan, which would have been negotiated between you, again, and the Staff Retirement Plan negotiated by—I do not know. It is within the same time frame.

Then we have (e); (e) is the Trinmar Employees Benefit Plan, established by the Trust Deed and Rules, dated June 25, 1967. Trinmar, in fact, was set up as an operating company. Trinmar's only assets would be physical things, because as an

operating company, they were set up with one-third shareholding from Shell Trinidad, one-third of Texaco Trinidad and one-third of what is called Trinidad Petroleum Development Company, TPD.

Those are the three companies that had the licences for Trinidad Northern Areas, TNA, which, in effect, is the marine field which we refer to as Soldado. So the licence and the assets were with the companies where Trinmar then is purely an operating company set up to operate and manage the company. This would have been another Employees Benefit Plan set up and negotiated by the OWTU on behalf of the hourly- and weekly-paid employees of Trinmar. One would ask, what about the senior people in Trinmar? All the senior staff people would have been secondments from the company, so secondments from the TPD which is Trinidad Petroleum Development Company, Texaco Trinidad Inc. and Shell Trinidad Limited.

What is important to note there is that the TPD was bought out by British Petroleum. So British Petroleum acquired the TPD interest, and, later on, BP bought Apex Trinidad Limited which was based in Fyzabad and Kern Trinidad Oil Fields which was based in Guapo. There you have the first coming of BP in Trinidad with the Palo Seco based, Trinidad Petroleum Development, with the Apex Trinidad, Fyzabad base and the Kern Trinidad Oil Fields.

Then, when BP left, not long after, they acquired these facilities. Probably, I believe, maybe, '67/'68 and that was when they told the government that they wanted to leave, the government asked Shell International if they were willing to buy it, they said "No". They asked Texaco if they were willing to buy it and they said "No", so they were left because BP wanted to walk away, and that is why the government then had an agreement with Tesoro Petroleum.

I think it is very unfair, really, at this stage in hindsight to say that Tesoro paid US \$50,000 for the assets they acquired in the form of BP assets. In fact, they were strong in getting financing. They had that amount, US \$50 million in shares and the equivalent amount was from the government. That is why Tesoro Petroleum Company Limited always was given as 50.1 per cent Government and 49.9 per cent Tesoro Petroleum. That was to give it a sense that it was still a state enterprise, because Tesoro people were very smart, they wanted to enjoy all the benefits of a Third World company.

This is where that final one in this listing, (g), the Employees Pension Plan established by Trust Deed and Rules dated December 22, 1970. That represents the hourly-and weekly-paid people of Tesoro Petroleum Limited later to become Trintopec. Before we go there, we have to say that there was a staff association

for the Tesoro, National Petroleum Staff Association they were called, and they have nothing to do with National Petroleum. It was National Petroleum Staff Association, and they were the ones who were negotiating, they were the bargaining body for the staff which was Tesoro Petroleum, and which, then would be about late 80's, somewhere thereabout, and government bought out Trinidad Tesoro and this is where Trintopec was formed. That was the final formation of Trintopec. This is why we say Trintopec Staff Fund which is the one that is not listed here. It is the only pension scheme which is not listed here, so it should really be an eighth.

I think the hon. Minister did speak to it, but it has always been said that they have not finalized the agreement with them. There it is, one organization, which is part of Trintopec, because Trinidad Tesoro was a joint venture company and Trintopec became 100 per cent Government, and that is why Trintopec was vested in Petrotrin.

5.15 p.m.

So, really, that is the history there and we still have one company unrepresented in all that we have before us and I think we can ask the question—it is a long time, because the trust deeds, et cetera, which only cover these, go back to November 12, 2009. This week it will be one year since those trust deeds and rules were—the trust deeds particularly, were executed by Petrotrin and Republic Bank, who are the trustees—signed, sealed and delivered, which we have with us now.

So my question had always been, well what is the story; what is the position with them? Because 2009 to now, a year has gone but I keep hearing that they are negotiating. I keep hearing that Trintopec staff has a superior plan to the rest of them, so they are saying: “Why should we go; why should we lose in this whole thing?”

So it is an important thing that they are not here, and I keep saying that this is something which needs to be resolved, because in all this merger exercise they are not there. They are part of the merger, or they are part of the vesting—Trintopec is part of the vesting. That is a far—other vesting plan, the Petrotrin Vesting Act, which was for the formation of Petrotrin and that was assented to on December 14, 1993. So that completes the story where Trintopec has gone as a 100 per cent government company into the Petrotrin Vesting Act. Once again, it is vesting of the undertakings, which means all assets, liabilities and obligations of Trintoc and Trintopec, including those set out in the First Schedule, subject to the exceptions set out in the Second Schedule.

So you can see, then, that the First Schedule is property, rights and liabilities again, the same as the Trinidad and Tobago Oil Company, the Trintoc vesting. So the exception then is that Textrin one and this is why I have gone through that, because I think it is important that we find out more about this.

I would like now to go to what the hon. Minister has talked about: enhancement of existing plans. I have already mentioned that in terms of enhancement, the question of the members of that non-contributory pension fund which only has pensioners at the moment—because, as I said, since 1995 that Provident Fund was closed, so we have only had pensioners in that. I hear two figures: 125 of them and I see the hon. Minister quoted here 118, so I do not know which one it is. I hope seven of them did not die one time.

So these are the figures. We are talking about what has happened after the merger or harmonization. This is what your contribution addressed. As I said, these are probably the oldest pensioners and among the most vulnerable. I do not know and I had said in my notes before when I expected this to be done last week: can you provide the range of pensions receivable by these retirees so we can look and see how they stand and where they stand in terms of who is looking after their interest? That was a question I asked: who is looking after the interest of all these pensioners who do not have anybody in staff, et cetera? There is no staff there; there are only pensioners for the non-contributory pension plan.

So this is why I ask: who is looking after their interest? All of this with the trust deeds, et cetera, how is it that they are being kept whole? That is why I say I do not know what is the range. There may be some of them of very high salaries; there may be some of very low salaries. How are they possibly being made up? Then I asked the question about the administration of the Petrotrin Employees Pension Plan and I said—this was written for last week's sitting. I asked: with a single plan which implies a single board of trustees, what criteria for appointments will be established? Will there be a separate investment manager? If so, what will be the basis of selection? I went on to say: are the trust deed and rules of the Petrotrin Employees Pension Plan, dated November 12, 2000—that is referred to in clause 5(2)—available for examination before the committee stage and before the vote is taken on this Bill? This is what I wrote for last Tuesday's sitting and which we did not do here.

So now we come to the situation where, with the postponement, I had asked the hon. Leader of Government Business in the Senate whether we could sight—because it is part of this Bill; it is given as an item in this Bill—or receive, in fact, the Petrotrin Employees Pension Plan Trust Deed and Rules.

Petrotrin Pensions (No. 2) Bill
[SEN. ALI]

Tuesday, November 09, 2010

So that is where I have reached now and I believe these trust deeds and rules have been sent to certainly all the Members of my Bench, I believe, and probably all the Opposition Senators. No? I do not know, but I know we have received it---

Hon. Seepersad-Bachan: Senator, if I just may respond to that; that request came into my office on Thursday from the Parliament and we sent it to the Parliament for distribution for whoever requested it.

Sen. B. Ali: Yes, thank you very much, Madam Minister. When I say I believe we have received it here, I thought someone told me—I do not know who—it was sent to the Independents and the Opposition. So if nobody has received it, well I think it is a shortfall if none of the Opposition Senators received it. Because I found it very strange that, having got this in one of the clauses, an agreement which had been signed already—and that is at clause 5(2) of this Bill:

“...trust deed and rules dated 12th November, 2009, executed between PETROTRIN and the trustee of the Petrotrin Pension Plan and hereby deemed to be a pension plan established under an irrevocable trust.”

It is here. I am sure, Sen. Al-Rawi, you know more about this than I do. As I say, I am neither a lawyer nor an insurance man but, having read that, I asked for it and it was duly sent to us. So, certainly, the Members here have it and I can say that I have looked at it and I have had counsel. When I say counsel, pro bono, gratis counsel, from an expert on the trust deed and the rules and I can go through those and I go along here with reference to that.

Mr. President, I now come to that. I am coming quicker than I thought. First there are Petrotrin Employees Pension Plan Trust Deed and Rules and a very strange little phrase at the bottom of it: “Made in anticipation of the Petrotrin Pensions Act, 2010.” I do not understand what that means, quite frankly. I do not know: “Made in anticipation of the Petrotrin Pensions Act, 2010.” It is here in this document and this is a document which is signed by the trustees who are Republic Bank Limited and by the President of Petrotrin on that day, November 12.

So I do not know what it means, and in the context of having a constitutional majority here, I question why do we want that. That constitutional majority, I looked at that. I remember I was on my sick bed when this was done in the Senate. I was not part of the debate. I was a week away from surgery when Sen. Mariano Browne, Minister in the Ministry of Finance then, presented it, and the question of the constitutional majority came up and he, in his piloting of the Bill,

said that this was a request of the OWTU. He said that the OWTU, by letter dated, I think one day before this, March 15, 2010, wrote to the Government and to Petrotrin asking for this Bill to be sent with a special majority, which I find very strange. I believe it was circulated. As I say, I did not see it within this list, this document they referred to, the letter from the OWTU, which I am sure is dated the day before, according to the—I am trying to see where it is in this document, but I know it is here, with that in mind.

The other important thing is, if that is the case, I am asking then, why is that so? Why did we go for this three-fifths majority, and further to that, Minister Mariano Browne, in proposing it, pointed out for—in making clear—*[Interruption]*

Hon. Senator: Three-fifths is required.

Sen. B. Ali: I know, but he made it clear that once you sign that and the trust deed was signed, there was no need to come back to Parliament. That is what he said quite clearly in this here. I am trying to find it here, because I have his contribution here. That is what he said. You can check in the *Hansard* dated March 16, 2010 if you want, but I am sure that is what was said. So once this Bill was passed and made into an Act there was no need to come back because that was not one of the questions of the Bill.

So where are we then? I do not know why we want to do comments on the trust deed and rules, but I propose to do it because, as I said, I sought expert advice and I did get it and I am very thankful to a friend of mine who persevered with me and went through the trust deed and the rules.

5.30 p.m.

Mr. President, I would like to go through item by item. I have my notes here. My friend and advisor did confirm that this pension plan is a defined benefit plan, and I think the hon. Minister mentioned that. I did not know what a defined benefit plan was. It says benefits are determined beforehand. He tells me that employees contribute 7 per cent of their basic salary plus COLA for 38 years in accordance with the Rules, while the employer contributes twice this amount. Normally that would be 14 per cent, and that is why I said 7 per cent. The employers have to make up on their contributions depending on the three-year actuarial valuation. That is what he said is a defined benefit plan. So you know what you are going to get beforehand in this whole matter.

Petrotrin Pensions (No. 2) Bill
[SEN. ALI]

Tuesday, November 09, 2010

The first question I had was on the trust deed itself and the choice of trustee. I know Republic Bank is a very reliable bank. In fact, I have to declare that I have been a customer of Republic Bank from 1960 till now, so I have nothing against Republic Bank. My question is: when the state company was going out for the services of a trustee, how did they go about it? Was it by a selective tendering procedure or was it on the basis of merit? I do not know. So I have to ask this question. I am saying, in fact, that maybe such a thing would have been the subject of a joint select committee on procurement because we are doing procuring services for a public sector company, Petrotrin. So, I just asked the question. I do not know who is going to answer it, but I am asking the question: how was the trustee selected?

So when I start with the questions on the trust deed and questions or comments I have here, if I go to the trust deed—unfortunately, everybody does not have it. I presume the Government people should have it. I would like to read sections 2.1.2 and 2.1.3:

“2.1.2: All persons in receipt of or entitled to receive a pension under a Former Plan on 1 January 2003 other than those who were contributing members of a Former Plan on 1 January 2003, shall continue to receive the benefits they were receiving in accordance with the rules of the relevant Former Plan...; and

2.1.3: All persons entitled to receive a pension under a Former Plan on 1 January 2003 who were contribution members of a Former Plan on 1 January 2003 shall receive benefits as set out in the Rules as from 1 January 2003.”

The question was: where and when were these two conditions applied, and to whom? I am afraid that everybody not having the document makes it a little bit of a—

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. S. Panday*]

Question put and agreed to.

Sen. B. Ali: Thank you, Mr. President, and thank you my colleagues. I will continue. The next section I would like to read is section 5.4.4 and it goes like this:

“The Principal Company”—which is Petrotrin—“shall be reimbursed by the Trustee out of the Fund for those expenses (including professional expenses) incurred in connection with, and in preparation for, the rationalisation of the pension arrangements of the Principal Company, the establishment of the Plan and the transfer of the assets of the Former Plans to the Plan. The Principal Company shall, if required by the Trustee, submit to the Trustee invoices in respect of such expenses incurred by it.”

Simple question: why should these bills or expenses come from the fund? The fund is for the benefit of the members. The harmonization and all of this we are talking about here is for the savings of the company. Therefore, I submit, and I agree with my advisor, that really that should not be a charge on the fund. It has to be a charge on the principal company. I think that sounds to be fair enough and I put it before this House.

Section 5.5.5 says:

“The Trustee shall not be responsible in any way for the administration of the Plan or the calculation of pensions, allowances or other benefits made by the Principal Company. The Trustee shall be under no duty to determine whether the amount of any contribution is in accordance with the Plan, or to collect or enforce payment of any contribution.”

So one wonders what is the remit of this trustee.

Rule 2.5 states:

“The employer shall, following deduction of the Member's contributions from the Member's salary or wage, pay those amounts to the Trustee.”

So who must ensure that this is being done? Is it left totally to the employer to do all of these things? I am asking: what is the trustee there for? My advisor says that we should keep in mind the case of Caroni (1975) Limited, where Caroni (1975) Limited deducted from the employees the pension amounts but never paid them into the fund. So the pensioners themselves are the ones who were going to suffer and apparently the government had to step in and pay it. So, all these funds are going there through their paying it according to Rule 2.5 of the document to the members to pay this amount to the trustee. I do not know what the trustee is doing other than collecting money and probably investing it.

As we know, Republic Bank Limited has a Trust and Asset Management Division, so I do not know whether they will be separately contracted or what to do any other thing. So my counsel feels that that is not only for the principal

company to do, but that is something in which there must be conversation between the principal company and the trustee. You do not want to suddenly find that there is a big hole in the fund because somebody has not been paid their amount. So I think the trustee has to have an eye on what is being paid. He is receiving the money each month, so he should know what he is receiving because he has to invest it too. So that is item 5.5.5

Mr. President, I go to 5.6.2 and that relates to counsel, and it says:

“Legal counsel appointed by the Trustee from time to time may be counsel to the Principal Company.”

To me, that is a conflict of interest; a possible conflict of interest, where the counsel appointed by the trustee may be counsel to the principal. So it is himself looking after himself in this matter, and out of an abundance of caution that should not be so. That is why this matter has been raised: how do you protect yourself under those circumstances from conflict of interest on the part of the trustee?

Mr. President, I go now to section 7.1.6:

“The Trustee may, with the agreement of the Principal Company, appoint an asset manager or managers to manage the assets of the fund in accordance with the provisions of this clause 7.”

But the question here arises—we know that Republic Bank has a very strong Asset Management Division. In fact, the signatory of this trust deed is or was the head of that division. So the question on that one is: if that is so, if they are going to use their own Trust and Asset Management Division, who will determine the fees; how will the fees be determined, or in what way that will happen? Because it will be Republic, the trustee, using its own Trust and Management Division to do work on behalf of the fund.

We go to sections 8.2.2 and 8.2.3. I will have to shorten this one because it is very long. 8.2.2 refers to actuarial valuation. It says:

“If a report by a Plan Actuary shows a surplus beyond the requirements of the Fund such surplus or any part of it may with the consent of the Principal Company and the Management Committee on written advice of the Plan Actuary either:

- (a) be set aside as a specific reserve against future contingencies; and/or
- (b) be employed in increasing the pensions and/or prospective pensions of beneficiaries so however that no pension shall exceed the maximum permitted in the Rules; and/or

- (c) be employed in reducing the contributions of Employers and the Members in equal proportion.”

That is in the trust deed as we have it here.

8.2.3. says:

“The Plan Actuary shall from time to time recommend what sums ought to be paid to the Trustee by the Employers under clause 9.1.”

But the maximum pension at retirement age according to Rule 8.5.1 is subject to a maximum of $66\frac{2}{3}$ per cent of basic salary plus COLA. So the maximum is $66\frac{2}{3}$ per cent of basic salary plus COLA. So is this the legal limit? Somebody says it is a legal limit, therefore, you cannot go above it. If that is so, I am saying you should really aim to negotiate away that legal limit because all you are doing then is that you are saying you cannot get more pension because it is a legal limit of $66\frac{2}{3}$ per cent of your basic salary. So that is what we are looking at there.

I think that about wraps up my comments on the trust deed. So I end by saying that I am disappointed that the Trintopex Staff Benefit Plan has not been negotiated to finality some one year after execution of the trust deed and rules.

5.45 p.m.

November 12 is a few days away and we keep hearing that they are negotiating. I keep hearing that the members of the National Petroleum Staff Association are saying that their scheme is better than what the rest are proposing. They are not included in this plan and when this is taken in conjunction with the requirement for a three-fifths constitutional majority it gives me a degree of uncertainty with respect to these members of a pension plan already in existence.

Will Trintopex’s staff pension plan still be maintained if this Bill is passed? Under what conditions? We were told by a representative of the previous government that this Act will not come back to Parliament for approval but it appears that these members, represented by an alleged bargaining unit, the National Petroleum Staff Association, could be deprived of their rights. I would like to be assured that this will not happen and that equity will prevail.

So, Mr. President, those are my concerns about the enhancement of the people who were in the Non-Contributory Pension Fund and the position of the Trintopex Staff Pension Plan members. They are an active group. They are still there, a part of Petrotrin. Part of them is in the vesting Act also, which is for the undertakings, liabilities and obligations, which include pensions.

So, Mr. President, I am in a bit of a quandary. I do not know who will respond because we are leaving an incomplete situation and I am not very happy with it. Unless someone explains what we will do, I would be hard put to give my vote—I am saying it very plainly—if only because I am not certain of the position of one group of these who belong to Trintopec, the company vested in Petrotrin.

Thank you very much, Mr. President.

Sen. David Abdulah: Thank you very much, Mr. President. I thank Sen. Ali for taking us through some of the history of the development of the oil industry in Trinidad and Tobago and in particular the developments which led to Petrotrin with respect to vesting at the various stages.

In this regard, I want to add to Sen. Dr. Henry's knowledge of the oil industry because I realize his knowledge was somewhat limited. Obviously, he would have been informed by Sen. Ali to some extent in terms of the specific pension plans that are to be merged through this legislation.

Before I do that, let me just say that it is with a great deal of pleasure that I have the opportunity to speak on this legislation today. As is well known, I am also a member of the Oilfields Workers' Trade Union, a very proud member. I joined the staff of the OWTU in February 1977, so that my connection with the oil industry does not extend as far back as Sen. Ali but I have within my personal experience as a member of the Education Department, then head of the department from 1978 to 2008, some 30 years; and from 2008 to now as General Secretary. I do have somewhat more than 30 years of institutional memory of the Oilfields Workers' Trade Union and of the development of occupational pension plans and their improvement in the oil industry.

My colleague, the Minister of Labour and Small and Micro Enterprises Development, Errol Mc Leod, goes further back than I do and he, as President General of the Oilfields Workers' Trade Union for 21 years, was responsible for some of the significant improvements and developments of oil workers' and other workers' pension plans and led the union, in fact, in those "negotiations with Petrotrin that have brought us to this point today requiring this particular legislation. I place on record my own congratulations and that of the union to our President General then for the foresight of leading the union's case for the merger of the pension plans.

I would like to say at the outset that the Minister of Energy and Energy Affairs made the point in her presentation that it was a proposal of the OWTU that got us to the point of merger. It was not a proposal of the employer. I want to

make that absolutely clear. The accounting requirement under the International Accounting Standards was that the surplus of the plan be identified as an asset on the balance sheet. The employer at a later time found that the merger of the pension plans would be beneficial to them and, by extension, the workers and the nation as a whole. The employer came to that realization post facto in terms of our proposal to have the pension plans merged.

It was very clear from our point of view, speaking as the Oilfields Workers' Trade Union, that a merger of the pension plans made eminent sense both in terms of the savings, administration and other costs. It also made sense from the point of view of improving the benefits for employees past and present.

I assure Sen. Ali that although all the members of the Non-Contributory Pension Fund are retired and have been for some years and therefore do not formally belong to a bargaining unit, the members of the blue shirts will take good care of his interest and that of all those retirees. The union is concerned about the well-being of all workers.

It is with a great deal of pleasure that I speak here today on the issue of pensions given the history of the OWTU with which I have been associated for almost 34 years. I also want to make the point, just to add to what Sen. Ali said, that it was the late George Weekes, as President General, who negotiated that first pension plan with Texaco, what is referred to in the Bill as the existing Plan (d), the Employees Benefit Plan, established by the Trust Deed and Rules dated June 23, 1966.

That pension plan, which was the very first occupational pension plan as far as I am aware, that was negotiated by any trade union in Trinidad and Tobago for ordinary workers. It was for the hourly- and weekly-paid workers of the then Texaco. That was negotiated in 1965 and became effective by the establishment of the Trust Deed and Rules, 1966. That was a major achievement of George Weekes having regard to the fact that he was first elected on June 25, 1962 leading what was popularly known as the rebel team within the OWTU.

Going back a bit further, the previous President General, John Rojas, was critiqued by members of the union for not having been able to bring to fruition a proper pension plan for oil workers at the time. That was a seminal contribution by George Weekes and the rebel movement within the OWTU to establish what we call the EBP at Texaco.

Having regard to the nature of the oil industry, following Texaco you then had the other oil companies, hence you see contributory Pension Fund B, which, as Sen. Ali correctly said, was Shell 1967 and Trinmar 1967, the employees'

Pension Plan, which I will come to in a moment, 1970, at the then Trinidad Tesoro. We also had the SRP, which would have covered the monthly-paid workers at Texaco, not then represented by the OWTU. They represented them from about 1975/1976.

Significantly the EPP which is listed as (g) under the “existing plans” was at Trinidad Tesoro and Sen. Ali is right in that regard. There was a previous pension plan negotiated with British Petroleum itself and when Trinidad Tesoro came into existence that plan was wound up and Tesoro established a new plan and the union actually sought to have the workers who were employed at Trinidad Tesoro at the time and who had past service under the BP plan—I do not now recall the details of that plan—to have those employees transfer their service into the new plan which is listed here as EPP under Trinidad Tesoro.

In the face of the union's advice, the majority of workers at Trinidad Tesoro refused it because they saw a few dollars and they ran after them as a lump sum payment and most of them lost their service. The OWTU, notwithstanding that, many years afterwards was able to negotiate some compensation for the past service they would have lost and enabled those workers at Trinidad Tesoro, later on Trintopec, to retire on somewhat of a better pension than they would have had, had we not intervened and protected them in the face of their own failure to heed the union's advice and then going for their cash. Later on, the SRP was a plan negotiated by the OWTU. I want to establish that these plans came into existence on the basis of the collective bargaining process and on the basis of proposals made by the OWTU.

I recall, too, 1980. There was a very intense struggle with the then Texaco to improve the pension plan. In those days, the pension plan—and Sen. Ali would recall that—was one that did not take into account your final salary. It was what was known as a career earnings plan and if you started working in the oil industry in 1940 at the age of 18, in 1980 the retirement age was still 65 and you would have then be working for 40 years. Your pension would have been calculated from start point in 1940. If you had started off working as a labourer for 15 cents or 20 cents an hour, even in 1980 if you were then working for, say, \$25 an hour as an A-class worker, your pension would be calculated as the average of your wage or salary over those 40 years, which meant that the pension would have been very small. It was also calculated in such a way that it would have required close to 60 years to have achieved the $66\frac{2}{3}$ maximum pension as it was.

There was a huge struggle in 1980 and I remember the union served strike notice. There was a negotiation that started on one morning and continued for

more than 48 hours, if my memory serves me right, at the old Ministry of Labour building in the annexe on Albion Street, just south of Knowsley. That meeting went on for more than 48 hours non-stop. It went on that way and we eventually signed an agreement to improve the pensions, the union having served strike notice and the clock ticking.

For those who do not understand the oil industry, when the union serves strike notice we give 24 hours notice so that the company can safely bring the plants down in the refinery. Sen. Ali would be aware of the need to bring the plants down safely. The clock was ticking to the countdown to shut down the plant safely and at the eleventh hour literally, which was our 40-something hour of negotiation, that particular pension matter was resolved and Texaco workers and later other workers got improved pensions.

6.00 p.m.

In 1989, there was a strike in the oil industry, beginning at Trintopoc and continuing to Trinmar and then to Trintoc as it then was. The principal issue of that strike in 1989 was the issue of pensions and the improvement of the pension formula to a 2 per cent pension formula, which would have given workers 66 per cent of their final pay as pension, after working for 33 years. That was a major struggle.

We then come to 2003, hence the reference in the trust deed and rules, through you, Mr. President, to Sen. Ali, of the date of 2003, because it was in 2003 that the union had the agreement with Petrotrin, to effect improvements to the pension. It was the union's proposals that we negotiated for those improvements and which improvements to the pensions would have been made effective by the merger of the pension plans. I thought I would give that brief history. At a later time I would talk about how we got to a national oil company, because we certainly did not get there because of Eric Williams.

Just to tickle your attention, Sen. Dr. Henry, it was in 1937, just after the strike of 1937, the very first President General of the Oilfields Workers' Trade Union, Adrian Cola Reinzi, appeared before a then arbitration tribunal, articulated the proposal of the union for a merger of the small oilfields like Apex, KTO and the other Antilles, and some of the other small oilfields and the formation of a national oil company in 1937. That predated Eric Williams' departure, perhaps, to the UK to study, far less the development of his writings and musings. From 1937, the position has been of the Oilfields Workers Trade Union as quite frankly—I

would touch on it at the end of my contribution. I would go back on that history, including how Trinidad Tesoro came into existence and the collapse of the first proposal for a national oil company, which was the first decision of the government at the time, following the demand of the Oilfields Workers' Trade Union.

Let me say, in response to Sen. Ali's query about why the request for a constitutional majority in this piece of legislation, he is correct. When the Bill was first laid in the Senate earlier this year, it did not have that provision. It was by letter dated March 15, 2010, to the then Minister of Energy, that the Oilfields Workers' Trade Union, through its President General, proposed that it be passed with a special majority. We did not specify the quantum of the majority, but we simply said "the requisite special majority". That was accepted by all the Members of this House at the time, because it was passed, as far as I know, unanimously, in March of this year, as it was passed unanimously in the other place a few weeks ago. The reason for that is that pensions can be considered to be the property of the members of the pension plan and to avoid, therefore, anyone thinking that their right to property would be affected in any negative way and, therefore, raise legal issues which would, as an individual, affect not just that individual, but the interest and, therefore, the property of everyone else, because pensions, of course, even though you individually get a benefit, which is yours, you are doing that in a collective with thousands of other people.

The Minister of Energy and Energy Affairs, I think, referred to 10,600 persons; those who are active members of the plan, those who are contributing to the plan, as well as those who have retired and, therefore, are receiving pensions in payment and those who will join at some point in time. As new employees are taken on as permanent employees with the company, then they too become members of the plan, because it is obligatory for permanent employees to be members of the plan. You want to ensure that one or two individuals do not seek to frustrate, in their attempt and, perhaps, misguided view to protect "their property" that they do not, therefore, affect negatively the property of thousands of other people. Therefore, it was for the avoidance of any possible problem that the union thought it is necessary to recommend, and it was accepted by all the Members of this House, at that time, that the Bill should be passed with a special majority.

There are always one or two individuals who think that, perhaps, they know more than everyone else and that they possess greater wisdom than anyone else. Therefore, those individuals could very well do things; take legal action that could

work to their own detriment. Sometimes we have to seek to protect those individuals from themselves. Hence, this particular proposal was made. That proposal, as made by the union at the time, was accepted by all Members of the House, including some of your colleagues; not yourself. A number of your colleagues did accept that wisdom. I am sure as they accepted it then they would continue to accept that wisdom at this time. I am sure that, perhaps, we can, through this process of debate, assuage your concerns so that you feel comfortable in this regard.

With respect to the National Petroleum Staff Association (NPSA), speaking personally, because I am speaking now, as well as a member of the union, OWTU, it, obviously, is unfortunate they are not included. That is unfortunate. That is not—I have to be careful in what I am saying. That is really largely because they themselves did not seek to be part of this whole process. Why that is so? One would have to ask them why they did not seek to be part of this process. I think I can say, and I know what the OWTU's position is, but since we are speaking about this particular piece of legislation, I think one would have to ask them. Although their pension plan is not explicitly referred to here, I do not know that their rights are being infringed in any way whatsoever. Their pension plan would then remain intact and they would negotiate their benefits with the employer for however many members they may have within that particular plan.

My knowledge of pension plans—I am sure there are others here, I am sure Sen. Ramkhelawan would agree with this—is that the larger the number of persons in a pension plan, the stronger the assets are, the better benefits, assuming, of course, all things being equal, as all economists, would say—I am sure Sen. Dr. Henry would agree—that given proper management and the investment of those assets, then the pension plan will do better. It is, perhaps, unfortunate they are not included in this piece of legislation at this time, but that was really of their own making and it will not, in my way, I am sure, affect the integrity of their plan or the level of their benefits in any way, except that the level of benefits would then be limited by the assets and resources of their particular plan, rather than being part of a wider pool of resources, which could possibly enable, therefore, improved benefits.

With respect to some of the other points that were made, yes, it is a defined benefits. The rules do provide for defined benefits plan. We have always opted, in the oil industry, for defined benefits plans. I know when the financial crisis of 2008 hit globally, there were many. Perhaps, Sen. Ramkhelawan could speak to this. I am sure my colleagues who are from the University of the West Indies are

also well aware of it. Those who had defined contribution plans took a big hit in their pension benefits, precisely because, under a defined contribution plan, the value of your pension at the end of the day is determined by the contributions that you have made, together with others, if it is collectively made, and the investments that are yielded over a period of time. If, therefore, the investments are not good, then the assets or the value of that defined contribution plan will shrink, and therefore the individual pension benefits will shrink accordingly to each individual member, as distinct from a defined benefits plan, where it is absolutely clear that, regardless of the investment environment, if the formula provides for X per cent, then you are going to get X per cent multiplied by your final salary, multiplied by your years of service and you are guaranteed that particular pension.

We have always, in the oil industry, opted for defined benefits plans, because we think that, generally speaking, it secures the interest of our members best, particularly in the context of high inflation. Sen. Dr. Henry referred to the issue of periods of high inflation, where you have a defined benefits plan, as this plan provides for, as a successor to the previous plans, the final salary of the worker, which is used to calculate the pension; in this case the final 12 months as the case may be, or whatever the rules provide for. Therefore, the negotiated wage or salary in the final 12 months, prior to an individual's or worker's retirement, is a salary that would have been best able to compensate for inflation going forward.

An important provision and one of the reasons why this piece of legislation was so urgent and why it should have been passed many, many moons ago—we are glad you on the other side are supporting it, but it should have been passed when you were in government many, many moons ago—was because the negotiated benefits included a factor for inflation and, therefore, there is to be, annually, subject, of course, to actuarial approval, an increase in the pensions of retired workers to offset, even partially, the impact of inflation.

We were very conscious when we, as a union, negotiated this particular improvement. We were very, very conscious of what inflation was doing to the oil workers, and, by extension, other workers' pensions, because it is very clear that, in times of high inflation, those who are on fixed incomes are the ones who are hurt the most. Those who have the opportunity to negotiate improvements in their terms and conditions of employment, either collectively, preferably collectively, or in some cases individually, have some ability to offset inflation. Persons, those who are on fixed incomes, like retirees, do not have that possibility. That is why we negotiated as a union at the time this particular increase of annual increases for retirees to offset inflation. We are very, very conscious of it.

The delay in the bringing of this legislation, by the previous government, caused retirees to suffer the full effects of inflation, without the benefits of that buffer of the indexation, which had been negotiated. It is very, very unfortunate, as I speak about caring, that if this piece of legislation had been brought in 2005 or 2006, whenever it was—had it been brought, when it could have been brought, when the draft trust deed and rules have been finalized in discussions between the union and the employer, —then persons who retired three or four years ago would have had some buffer against inflation, and that did not take place. They would get it, of course, retroactively, but getting it retroactively did not help them at the moment in time when their incomes were being eroded by inflation.

I just wanted to make the point that it is very, very important that this piece of legislation is passed, in order to afford Petrotrin retirees some buffer, with respect to inflation. It is and was a concern of the union a long time ago, Sen. Dr. Henry.

Let me also make the point that, with respect to the need to address the outdated pension plan legislation, one hopes that the Central Bank—when it had a process of consultation by asking for comment on the legislation, which it put forward some time ago—take that stakeholder consultation, discussion and contributions into account, as they come up with a new regime for the regulation of pension plans in Trinidad and Tobago. There is no doubt that there is need for the improved regulation of pension plans in Trinidad and Tobago, given the fact that we are talking about the deferred income of employees. I would like to reinforce the point that pensions are the deferred incomes of workers.

6.15 p.m.

I would like to reinforce that point that pensions are the deferred incomes of workers. Workers take, in effect, what is a cut in their real income—their take-home pay—by paying a pension contribution. The employer, in effect, does not pay to the worker the current pay of X per cent, either matching or doubling the workers' contribution to the pension plan, and that money is then put as the deferred income of workers.

It is, therefore, very important that the deferred income of workers is properly protected by regulations that are modern and so on but, at the same time, ensure that the role of the management committee of the pension plan is enhanced to take care of some of the points that were raised by Sen. Ali about the role of the trustee, and to ensure that the trustee effectively carries out his or her duty to the members of the plan, to the employer, to the management committee and also the asset manager or the investment manager. All of those things that Sen. Ali raised

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are very valid points, but I think they could best be addressed in the context of the regulatory framework that may surface some time to come in terms of pension plan regulations. In other words, we can, in a very holistic way, address those concerns.

One of the things the union had proposed in our letter of March 15 was that there should be a new clause inserted to read:

“The trust deed and rules may be amended in accordance with the provisions of the trust deed and rules.”

And that did find favour with Members at that time, and it is incorporated in this particular Bill at clause 5(4). The wording is exactly what we had proposed. We are glad that our legal drafters—did not have to go outside to get a Senior Counsel or a junior counsel for this—were able to draft this ourselves, and it found favour with Members of the Legislature at the time, and this is the exact wording at clause 5(4).

The reason we had sought to put that in—if the Senate agrees to it unanimously, and while we are sure it will agree on this occasion and the other place agreed a few weeks ago with it—is precisely because the trust deed and rules have to be amended from time to time. One did not want to have a law which could, in the view of someone, trump the provisions of the trust deed and rules by referring in clause 5(2):

"The Petrotrin Pension Plan shall be governed by the trust deed and rules dated 12th November, 2009..."

If that had been the only reference, then somebody, maybe a bright young lawyer or maybe someone who is not so bright, could then interpret that to say that the pension plan should be governed by this specific one, and it is embedded in legislation, how do you then amend going forward? So to avoid any doubt, we suggested this, and it was agreed that we should include a new clause which is 5(4):

“The trust deed and rules may be amended in accordance with the provisions of the trust deed and rules.”

That is so that if there are concerns with the trust deed and rules of November 12, 2009, and there very well may be—in fact, wearing another hat, I am aware that there are concerns about that date, November 12, 2009—but we can then continue the process of amending, improving and taking into consideration best practice and so on going forward.

We want to assuage Sen. Ali's concerns when he referred specifically to the trust deed and specific clauses in the trust deed and to say that the amendments are not speaking specifically to the ones that he referred to, but that amendments can take place going forward. That is very important to get best practice to protect the members of the plan in the best possible way, and to ensure that their interests are protected and ensured.

The issue, though, is to delay this piece of legislation in order to try to correct that trust deed and rules, if Sen. Ali is correct, would then mean oil workers passing away without the benefit of an improved pension. When one looks at the greater—

PROCEDURAL MOTION

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until 7.30 p.m., or until the completion of the contribution of Sen. Subhas Ramkhelawan whichever one is earlier.

Question put and agreed to.

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Sen. D. Abdulah: Mr. President, thank you very much.

Sen. Hinds: Senator, I would like you to address the conflict of interest point raised by Sen. Ali

Sen. D. Abdulah: Mr. President, I was making the point that the issue of the need to have this legislation passed, notwithstanding the concerns raised by Sen. Ali with respect to trust deed and rules, I think that we have to look at the greater interest here, and to ensure that those persons who have retired from Petrotrin and its predecessor companies—many of them have retired from predecessor companies—that those workers enjoy the best possible benefits at this time and, therefore, to delay the passage of this piece of legislation would, in effect, be to deny them the benefits which they so richly deserve.

Sen. Ali is absolutely correct when he said that we are talking about people who have worked for very many years. Some oil workers I know have toiled for 45 years and 47 years in the oil industry starting off as apprentices at age 13 or 14, and then retiring at age 65 and so on, and they have given tremendous service, not only to the employer but to Trinidad and Tobago.

I think too often the society forgets the fact that the wealth of the nation is generated by the labour of those who worked and we need, therefore, when these workers who have done so much in the employ of our nation—in their retirement years, we need to do the best possible for them. An important measure of how we treat with our citizens is how we treat with the elderly and those who have contributed immeasurably to all that we now enjoy. So, it is in that context I think that even while the issue there—I think conflict of interest is what Sen. Hinds was referring to with respect to the trust deed between legal counsel to the principal company, but it says “may be”, it does not say “shall”. I am sure one is going to be guided. This Government has stated many times—I am sure that when the hon. Minister is winding up she is going to speak to this as well—that it will ensure that good governance prevails at Petrotrin unlike that which prevailed or took place over the last eight years. Sen. Hinds, you “look” for that one, because the governance at Petrotrin, over the last eight years, was horrendous to say the least. We are going to ensure that best practice obtains in Petrotrin.

Let me also say, with respect to Sen. Ali's query about the trustee and how did the trustee come to be selected, that it was selected through a process. In that process was also the Oilfields Workers' Trade Union, because there was established in the whole merger process several committees, one of which was a technical committee and a steering committee, and the union was represented at both levels. There was a consultant that made recommendations and there were a number of other processes that we were engaged in. The selection of the trustee as Republic Bank Trustees was, in fact, a process that involved the union as stakeholder. So it was not pulled out of the hat in a way that could raise major questions of transparency and so on. I want to assure Sen. Ali and all Senators that going forward as well, the People's Partnership Government will ensure that best practice obtains with respect to governance, and that there is neither perceived nor real conflict of interest at Petrotrin as has been the practice over the last eight years.

With respect to the issue of the 66 $\frac{2}{3}$ limit which Sen. Ali also raised, that is obviously a concern. That limit does not find its way in legislation, as far as I am aware and, perhaps, Sen. Ramkhelawan could assist here, but it finds its way in the Board of Inland Revenue regulations and is, therefore, not a limit placed by statute on pensions.

For very many years, the unions have argued that limit ought to be removed, and the limit of one's pension should be the assets of the pension plan to which one belongs. That is in here, because it would not have been passed by the Board

of Inland Revenue if it was not there. That is my understanding, because it is part of the BIR regulations, but it is a limit which is unfair in that, if there is a pension plan that is very successful in terms of both contributions and management of investment, then the pension plan could very well afford to pay more.

What has happened over the years is the formula for calculating pension has changed, which, if used for a worker who works beyond 33 $\frac{1}{3}$ years and up to age 60, one could see that individual getting more than 66 $\frac{2}{3}$ per cent of their final salary as pension. It therefore means that what has happened is that in some workplaces workers can work and leave their employ at age 55, and obtain a full pension of 66 $\frac{2}{3}$ given the fact that they have done 33 $\frac{1}{3}$ years' service. In a sense, it has happened, but the limit is one that really needs to be addressed elsewhere by other means. It is there in the trust deed and rules, because the Board of Inland Revenue is hardly likely to pass a pension plan that does not include that particular limit, and is something that perhaps will be addressed in looking at pension reform going forward by this Government.

Let me say a few more things in relation to the issue of the National Oil Company and Petrotrin. Mr. President, I mention the fact that it was in 1937 that the idea was first proposed by the Oilfields Workers Trade Union President General, Adrian Kola Rienzi for a national oil company.

Mr. President, 1956 was an important year in this country's history. I thought Sen. Hinds might have been piqued by that reference, but not for the reason that he thinks. That was the year that Texaco came to Trinidad and Tobago. He probably does not know that. It is interesting that multinational Texaco and the PNM came to Trinidad and Tobago at the same time. We were visited by twin whatever, negatives, to the development of Trinidad and Tobago, at precisely the same time—I was going to say evil, but I thought I would be a bit more diplomatic than that since Sen. Hinds is in such a good mood this afternoon. [*Crosstalk*] I missed that, and luckily I did, because the response would not have been one you would have liked.

6.30 p.m.

Mr. President, let me make the point that in 1955 the then Trinidad Leaseholds Limited owned by Leaseholds of the United Kingdom was indicating they were going to sell out. The balance of power had shifted across the Atlantic following the end of the Second World War. The United States was on the rise and the UK was in a period of decline. Texaco wanted to come into Trinidad and

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Tobago, not primarily because of our oil production, that was part of it, but because they wanted a major refining centre and a deep-water port so they could supply their major markets in the US. In those days Texaco was short of refining capacity in the US, so they were looking around and Trinidad provided an ideal location. I see Sen. Ali nodding in concurrence. Trinidad provided an ideal location because we had a deep-water port and we were in-between their oilfields elsewhere and the US market.

Before they came, the Oilfields Workers' Trade Union at the time, through its then President General John Rojas, proposed that the colonial government acquire the assets of Leaseholds Limited and keep it in trust for a then independent Federation—because in 1955 and 1956, we were talking about Federation—as a means of establishing a strong economic basis for the Federation, and *ipso facto* for Trinidad and Tobago. Of course, that proposal was not adhered to or accepted by the colonial government; they were not interested in us having a strong, independent economy and so Texaco then came in.

The point I want to make is that once again in 1956 it was the union and the workers who were out front in the call for a national company. The PNM had not yet become government; long before Dr. Williams thought about these matters. In the 1960s it was George Weekes and the OWTU that made a demand for a national oil company. If one goes back to the *Vanguard* newspaper of the union, you would see all the articles calling for a national oil company and there was a campaign for a national oil company.

In fact, Dr. Williams announced the establishment and formation of a national oil company, only later on for it to be transformed into Trinidad Tesoro with \$50,000 of shareholding by the Texaco Oil Company of Texas. So the notion of a national oil company fell to something much lesser and became Trinidad Tesoro. But our position in 1969 always was for a national oil company. Therefore, it was the PNM Government's and Dr. Williams' response; he was reacting to the progressive ideas of the Oilfields Workers' Trade Union. It was not that we helped Dr. Williams then; that is, again, PNM revisionist history. I want to correct the record. [*Desk thumping*] Labour led and the blue shirts of the OWTU, and workers lost their jobs; workers made sacrifices; workers went on strike. When workers in the oil industry go on strike—[*Interruption*]

Sen. Hinds: As is happening today!

Sen. D. Abdulah:—they do so out of a nationalist sentiment. They went on strike not simply for better pay, but to save Trinidad and Tobago.

Texaco signalled in December of 1982 that it was going to close up and leave. We were prepared, at that time. In fact, the OWTU wrote a memorandum to the government saying that they should let Texaco leave and the oil workers would come in a nationalist spirit, as they did in Mexico in 1937 under President Cardenas. We would have gone in and taken over the oil industry and run it in the interest of Trinidad and Tobago. [*Interruption*]

Sen. Hinds: At last!

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. S. Panday*]

Question put and agreed to.

Sen. D. Abdulah: Mr. President, I thank my colleagues in the Senate, on both sides, for allowing me to speak for a further 15 minutes. I heard what Sen. Hinds said. One of the problems that he and his members have is that they do not like to be educated. They like often to mobilize people around emotion and other factors and they do not like the true history.

One of the things I would love to see in the curriculum of the education of the young people of Trinidad and Tobago, is the true history of this country, [*Desk thumping*] for the ordinary folks like E. R. Blades, who is 108-years-old, who went on strike in 1937, and all the other workers, as Butler called them, the warrior workers of this country, who took their lives in their own hands. They lost their lives, because they believed in struggling for justice, for peace and for a better quality of life for themselves, their children and grandchildren. Some of them never enjoyed it. In fact, while we debate pensions, some of these pensioners never enjoyed the full fruits of their labour, notwithstanding all the things the union did in improving their quality of living, but they went on strike, they struggled and sacrificed for a better future for this country. They did that in the 1980s in a clear effort to save this country.

What the government did at the time was to have Trintoc, which was then highly profitable—it had made over \$100 million in after tax profits and was holding that as a surplus, because Trintoc was then looking at investing in upgrading its refinery in Point Fortin. The Point Fortin refinery in Trintoc produced the best bitumen in the country; it produced the best aviation fuel or kerosene, as some people called it, and there were historic reasons for that. It was

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that Shell refinery, the UBOT (United British Oilfields of Trinidad and Tobago) refinery, that provided aviation or jet fuel for the British Air Force and was central to the British war effort, both in the First and Second World Wars.

Mr. President, between 1982 and 1985, Trintoc had to divert its own indigenous crude to keep the Texaco refinery at Pointe-a-Pierre going. Trintoc lost a huge amount of money. As a result of that, Texaco kept going, but it ran down the refinery and the producing fields. In 1979, the union launched a campaign called "Texaco Must Go". Dr. Williams responded by establishing a commission of enquiry into Texaco and we gave evidence about how the fields were being run down.

The fact that we had a Trintoc that merged with the original Trintoc and Texaco in 1985 and we came out of that period of being run down by Texaco, the loss of money by Trintoc and the fact that it survived, are testimony to the work and labour of ordinary oil workers in this country and to major contributors, at the level of the management, at that time; people like Walton "Wally" James and others who knew the industry and knew how to ensure the survival of the industry. I am sorry that we do not have some of them around at this time.

So we had that situation of Trintoc going forward. It was all of those things that led to the merger of these plans. It was because of the merger of Texaco and Trintoc to form the new Trintoc and then the merger of new Trintoc and Trintopac to form Petrotrin that we have the establishment of all these pension plans.

Let me say as well that the oil industry in this country is absolutely vital, as we all are aware, to the economic well-being of Trinidad and Tobago. When we speak about the oil industry we must also, therefore, include in that, as the largest subset of that, the Petroleum Company of Trinidad and Tobago. It is very important that the employees of the Petroleum Company of Trinidad and Tobago feel confident and secure that their interests are protected, both as workers and in terms of their future years as retirees. It was because they were so concerned about their security as workers and the survival of Petrotrin itself, that on May 24 this year there was a change of government and the People's Partnership came into government in Trinidad and Tobago. [*Desk thumping*]

The reason I am making that point is because Sen. Dr. Henry referred to some concern about Petrotrin being overstaffed and that there was some ratio; that was a PNM policy position. Their policy position was that Petrotrin was overstaffed by 3,000-odd workers. We were aware, as a union, that Petrotrin had compiled a list of employees by name, 2,000 or more of them, to go home. The intervention, if I

might say so, of the union, of MSJ in the People's Partnership and this Government's victory of May 2010, ensured that those 2,000 workers are still employed today. [*Desk thumping*] Had it been for the other side, we would be talking about a pension plan trying to deal with 2,000 additional persons who would have been getting, perhaps, an early pension or some such thing. That would have put a great deal of pressure on the existing pension plan.

Hearing Sen. Dr. Henry this afternoon reminded me of a fact. Sometimes they say, "mouth open, story come out", so when he talked about it, it reconfirmed, certainly in my view and those on this side, and all right-thinking oil workers, the fact that the policy of the PNM was one of overstaffing at Petrotrin, bloated wage bill and, therefore, retrenchment would have to follow.

In closing, I am very happy to support this piece of legislation. I hope that I have responded to some of the concerns by Sen. Ali. I know that he wants to make sure his pension from that non-contributory fund is well secured.

Sen. Ali: I do not receive a pension from Petrotrin, Trintoc or Shell, or STL. As I said, life began at 40 for me; I left there at 40.

Sen. D. Abdulah: Thank you for the correction, Sen. Ali. I am glad you were able to start life at 40 with the lump sum you would have gotten at that time, when you left Shell and went to the Ministry of Energy and Mines; my apologies. Certainly you are concerned about some of the persons you know, whom you worked with and to make sure their benefits are secured.

I am certain that this particular piece of legislation will ensure not just the benefits but the entitlements. We talk about pensions as benefits; pensions really are entitlements to workers as their deferred income; their entitlements as persons who have contributed many years of service to the oil industry, that those entitlements are secure. Sen. Ali and other colleagues would find it more comfortable now to support this piece of legislation and they would recognize that it is in the best interest of everyone if it is passed with a special majority, because in that way one or two individuals would not upset the apple cart and spoil it for many, many thousands of oil workers past and present.

Thank you.

6.45 p.m.

Sen. Subhas Ramkhelawan: Thank you, Mr. President, for giving me this opportunity to speak on this Bill, an Act to Restructure the Pension arrangements of the Petrotrin Petroleum Company of Trinidad and Tobago.

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I come in as the last batsman today, but I hope that at the end of my contribution our citizens would not have considered that I “Vuped” my way through the last few minutes of this afternoon. In fact, I propose to keep my bat very much in line and play every ball on its merit.

Hon. Senator: Rambachansingh. [*Desk thumping*]

Sen. S. Ramkhelawan: The last time, or should I say the previous incarnation to this Bill was sometime in March of 2010 in the Ninth Session of the Parliament.

At that time we did not have the benefit, or, shall I say the opportunity to hear the learned Minister of Energy and Energy Industries, who, at that time may not have been even dreaming that she would have presented a Bill of this nature in November 2010. [*Desk thumping*]

I, therefore, take the opportunity to welcome her and to use this opportunity to speak, not only to the narrow area of the pension for our citizens, whether members, whether participants, but beneficiaries, nevertheless, to this plan, to speak using this as a wider platform for the issue of pension in Trinidad and Tobago and for our citizens in general.

I propose to speak to a number of issues. First, the legislative structure not only governs this pension plan but all pension plans, to speak to the state of the pension fund system in terms of its size and its adequacy for meeting the obligation to our citizens as we go forward into the future. I say go forward into the future, because some of my learned friends—Sen. Ali, has provided us with a living history and our friend, Sen. David Abdullah, has provided us, in part, with some textbook history and a bit of living history. I propose to speak about the role of the various parties, the operations of pension funds, and that would be the trustee, as has been documented in this particular piece of legislation. The investment managers, as have been identified by the hon. Minister, and the management committee which has been well defined in the trust deed of the pension fund of the pension plan and its role, vis-à-vis, the trustee and the investment managers. To speak about the investment management and the investment portfolio, and then, probably make a few concluding remarks.

Mr. President, insurance legislation, which has in the past incorporated pension legislation, has not seen the light of day—new legislation that is—since around 1980/1981, some 30 years ago. In fact, prior to that, our first insurance/pension legislation was in 1963. So, 17-odd years elapsed in that first adjustment and 30 years have elapsed in this second adjustment. We await

pension legislation, which, I understand, is somewhere in draft, waiting to be unveiled to this Parliament. It was supposed to be the Insurance Act, 2010, and I do have my doubts whether we would get that piece of legislation in at this point in time.

Indeed, I am not clear, as yet, what is the framework in which this current administration is going to deal with matters of the capital markets, including insurance and pension. I would certainly like to hear, if not from this hon. Minister from the Minister of Finance, what the game plan is, what is the policy that would circumscribe those essential parts of our financial system and the capital market.

Let me start talking a bit and giving some background as to where we are today. I spoke to the insurance legislation in 1963, upgraded insurance legislation 1980, I believe it is 1980/1981. Nothing has happened since. Many calamities have taken place since 1980. We have not seen it fit to make any adjustments, except insofar as we have brought to this honourable Senate crisis legislation, so when the Clico fiasco broke we brought a piece of legislation to amend the Insurance Act, and that was sometime last year, I believe it was. The core of legislation which would repeal what is in place and put in place best international practice that has been developed over the past 20 to 25 years has not seen the light of day as yet, but we look forward to that Insurance Bill which is supposed to come to us in due course.

In 2002, the then administration established a committee to look at the financial system and the financial services sector, of which was pension reform as well as insurance reform. That translated into a Green Paper which saw the light of day sometime thereafter, I think it was 2003, and then into a White Paper, which came about sometime 2003/2004. One of the major planks of that White Paper was pension reform, bringing pension management and pension infrastructure up to modern standards. As I said, that has not happened as yet. So, when we look at this particular plan in context, these seven-odd trust deeds that are being amalgamated for this new plan, which I am told by the Minister, as we heard today, would constitute some \$7.25 billion in assets, these seven plans will make up in total about one-third of private sector pension plans in the country. It is so very important and so very elemental.

I am happy for those fortunate citizens who will be the beneficiaries of this particular plan, because it is a plan that caters well for the needs of our citizens who are beneficiaries. Apart from the private sector, which is about 20-odd billion in pensions, we have the NIB which provides some benefits to all workers who

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have made their contributions across the board, and the NIB assets constitute some further \$18 billion of assets in pensions for our citizens. Beyond that, when we actually go to any pension funding for the public sector for our public service citizens, what has happened? We have as at the end of 2008, according to the then Minister of Finance, an unfunded pension position in present value terms at that time of some \$30 billion.

So, what it says to you, Mr. President, and to all our citizens, is that we are in something of a sorry state as far as pensions go for our citizens, because, as you know, this unfunded position in the public sector will grow. It will grow because we have a greater unemployment—greater employment. I am sorry, that may have been a Freudian slip. We have greater employment taking place in the public sector, but we do not and we have not put aside funds to make sure that we can meet the needs of our citizens as they go to retirement in the public service. So, we have to be grateful that for one-third of the private sector the Petrotrin Pension Plan does provide for our citizens.

It is an Achilles heel that will come to bite us. It is something that we have not catered for, and just like in 2007, we were sailing along merrily as an economy, just like that, a “tief” in the night came and stole our economic perceived prosperity. It is going to come to bite us in the public service, unfunded by \$30 billion, which is, as you would be aware, Mr. President, almost 25 per cent of our current GDP. It is something that troubles me and I want to trouble the Minister of Finance, because, if it troubles him, he can, he ought to and he must do something about it.

The last administration, after many years, came to the conclusion that there was the need for a contributory pension scheme in the public service and some policy statement was made that in the years ahead there would be some plan to provide some level of contribution. I believe it can go as 4 per cent contribution by the public sector workers and Government would contribute some. What is happening to that: is it that the current administration will continue that policy? Is it that the current administration has a policy, or is it that the current administration is intent on doing something to close that unfunded gap? I would hope and expect that an answer is forthcoming sooner rather than later, early in the game, because this is something that could be seriously damaging. If we cannot meet some of our current expenditure, how are we going to meet bloated future expenditures as we go along? Serious question. I look forward to a serious answer on this particular matter.

So, what do we have when you take a net position? Twenty billion in the private sector, \$18 billion in the NIB, which would be about \$38 billion, and a net deficit of \$30 billion in the public sector. That does not take into account our position now where we have a senior citizens pension which is not in itself contributory at all, but it is a pension made out of the current revenues of any administration.

I set the stage to ensure that we fully understand the problem if we did not understand the problem before. So, my learned friend, Sen. Abdullah, spoke to the Petrotrin Plan which is a defined benefit plan as opposed to a defined contribution. If time permits I will talk a bit about his position that a defined benefit in this particular case worked very well and probably might be superior to a defined contribution. If time permits!

I want to speak to the whole question and delve a bit more into the legal framework I spoke to when the last Insurance Act, in broad terms, was put in place. What this Act—tenets of this Act spoke to, was in terms of investment, it spoke to a restricted structure for investment in accordance with what is called the Second Schedule. This Second Schedule speaks to how much somebody could invest, an investment manager can invest in equities, in secured bonds, in unsecured bonds, in property and so on, and establish a regulated playing field which says, you must do this and you must be within these limits.

7.00 p.m.

That in itself needs to be very closely looked at because it is the same Schedule that circumscribed pension funds. Pension funds must invest in accordance with the same Schedule, but here is what I would say to you. That Schedule speaks, inter alia, to what countries our pension funds in Trinidad and Tobago can invest in. Let me tell you. We can invest in all Commonwealth countries and we can invest in OECD countries, but yet still we cannot invest in those countries which have emerged as giants over the past 20 years or so. Can we invest in China, according to that Second Schedule? No. A country that has the largest reserves in the world, our pension funds cannot invest there. Can we invest in Brazil? I do not know whether our pension funds can do that.

The point I am making is that we have put in regulations that are restrictive and, being restrictive, they do not allow for the prudent person concept of investment where, if we have fit and proper persons, they would come to their management committee and say, "This is how we should invest"; the management committee will agree that that is how we should invest.

This takes me now to the question of the role of the various parties that participate in pension funds, the benefits and the dangers that lie ahead. The trust deed of the Petrotrin plan identifies the trustee, and the trustee in this case is the legal person who holds all the assets of the Petrotrin pension plan, and that is the case for other pension plans as well. The trustee therefore holds this \$7.5 billion of investment assets. The trust deed of the pension plan, which we have seen for the first time—I think when the Bill came up the last time there was none available to us and I am grateful to my learned colleague, Sen. Ali, who insisted that he must see the trust deed and the rules and so on.

So the trustee is the custodian and the trustee, in liaison with the company, Petrotrin, and the management committee, according to these rules, can determine who are the investment managers, and we have heard today from the hon. Minister of Energy who these investment managers are; three of them. Then there is the really unclear role, as it stands, of the management committee.

I want to speak to what has emerged as international best practice over the past 30 years, and even more recently. In enlightened jurisdictions there is a separation of the role of the trustee, the bagman, the person holding the money and the assets, and that of the investment manager, the person who advises where you should invest and how you should invest to get the best returns at a certain level of risk. This management committee that we speak about now looks after the interest of the members of the pension plan to make sure that the best investment managers are selected and have some level of oversight with the reports from the trustee as to where moneys are held and how moneys are held and so on.

Right now in Trinidad, there are no regulations to separate these roles. There is a commingling. So that the custodian trustee can also act as investment manager and there are many trust deeds in this country where the role is joint and the trustee cannot be fired and, therefore, since the trustee undertakes the role of the investment manager, the investment manager cannot be fired for poor performance. That is why I argue and I support the separation of these roles. If the investment manager is underperforming and the bagman—in a good sense—who is holding and is the custodian of all of these bonds, there can be a liaison in accordance with a trust deed, in accordance with the arrangement, to ensure that non-performing managers are removed and you employ what would be considered to be better performing managers to get the job done.

In the world today, you might have specialist investment managers, somebody who will deal with local equity; somebody who will deal with foreign equity; somebody who will deal with local bonds; somebody who will deal with

international bonds. There is absolutely no need any more to have one investment manager to be all and everything.

Therefore, as we discuss and debate this Bill, I want to appeal to the current administration to ensure that pension legislation is brought as early as possible. We have seen some of the dangers firsthand, close and upfront; we have seen them, not only in our jurisdiction but in other jurisdictions. We have seen poor investment policy and poor oversight destroy some of the largest insurance companies and pension providers in the world and we do not want more of that to happen here. I say “more of that” rather deliberately because some of that has already happened in this country. We cannot twiddle our thumbs while Rome burns.

That is the message. While I am happy for our fortunate citizens of the Petrotrin plan that they have gotten it right, I want to make sure that all our citizens have an opportunity to benefit with dignity, to receive a pension in the later part of their lives when they are no longer working citizens, and the danger is that not much of that will happen because we have not moved to say—well, there is this notion which I hold dearly to of reciprocal responsibility; if you want to benefit from a decent standard of living in your later lives, save now, invest now, through being part of a pension plan so that when there is the enticement to withdraw your savings to spend it on a new car or spend it on some other paraphernalia, that enticement cannot be realized because when it goes into a pension fund it is sticky in; very difficult to come out until retirement age sets in. So it is critical that we pay very close attention to this particular matter of pension funds.

Now, what I saw in the Petrotrin plan is not a true reflection of international best practice for the role of the management committee. This management committee is a rubber stamp that sits in the middle there and it does what the trustees tell it to do or the company tells it to do. There is nothing in the plan that establishes what would constitute fit and proper persons to sit on the management committee, and I stand to be corrected, because I quickly thumbed through the document.

So if the janitor who is a good friend of the managing director of the company is asked to sit, there is nothing that stops that person being appointed on behalf of the company. I know that my learned friend, Sen. Abdullah, is certainly much more responsible than this, but perchance someone else was there and he took up ministerial position or some higher ranking position in the administration and he had to recuse himself from the activities of the union, it could be that persons or a

person—because on the management committee the union has a pick; of the five persons on the management committee the union has a pick and sometimes what happens with unions—and behaviourally with other institutions—is that the most favoured person, probably the most popular person, might be put to sit to oversee \$7.5 billion of investments. It has happened before; I have seen it. I have been around the mulberry bush many times in this country and I have seen it. Therefore there is nothing to stop it.

So as we put in place pension legislation and pension policy, we must ensure that the persons who sit on that investment committee understand their fiduciary responsibility, their responsibility of trust to all the citizens who have their hard-earned savings put into that pension plan, and that is not the case at this point in time, neither for this plan nor for any other plan that there is in the country, because legislation and policy must say, “fit and proper” means that you have experience in this area of investment management; that you have the requisite qualifications and, therefore, you can sit comfortably and screen all of these proposals and investment proposals coming to you.

Suppose you had a proposal: gas to liquids—hypothetically I am speaking—and you have to invest in preference shares in some company, and you do not understand which is the senior credit or not, you might very well say, “This thing sounds very nice because the guys took me to lunch; they flew me off to New York; they did this”—very nice—and you make your judgment on how well they treated you when you sat up there in New York. I have seen it before so I can speak. I have seen it before. [*Interruption*]

I will not go so far as to say that it is bribery; I would say that those who have targeted you to make an investment have done a very convincing job, and nobody across there could tell me all 3,000 of their appointments who may sit on investment committees and so, all of them are fit and proper for investment management. The answer is no. Some have claimed that not all of them are fit and proper to even sit on boards, but that is not my business. I do not want to participate in that discussion. What I want to participate in is that there must be fit and proper people on the management committees, because they are playing with our moneys; they are playing with my retirement money and the retirement money of all our citizens.

I want to turn to the role of the investment manager very quickly, because I have already spoken to that role. There must be a system in our country, as there is in other countries, for the qualifications of those persons who sit as investment managers, because I am making a strong case that we move away from this

regulated system into a system that deals with a prudent manager on the one hand, being screened by a prudent fit and proper investment or management committee, on the other hand, and for which the trustee is separate and apart, so he does not touch the money for investment purposes. All he does is guard the money as moneys have been invested.

Until such a time, we are in danger, not only in danger with regard to the operation of pension funds, we are already in danger with regard to the funding of the retirement requirement of our citizens in some segments of the society—of course, not in Petrotrin.

7.15 p.m.

A bit more on the investment portfolio; when you have a schedule that is restrictive, you cannot invest in some of the best investment opportunities that are out there right now. I spoke to the case of China as an example, not as a recommendation, but I want to speak to some other aspects of the Second Schedule that in an enlightened jurisdiction it would be extremely disturbing. When the Second Schedule was implemented, there was a restriction on the proportion of funds of that pension plan that could have been invested internationally. So we still have a system where there is a limitation on what you would call foreign assets in an investment portfolio, and in our case it is 20 per cent for private pension funds. I believe it is lower for the NIB at this point in time.

Now when you are flush with liquidity as we are, the returns of those funds will fall precipitously because now you have to have 80 per cent of your money in Trinidad and Tobago earning zero per cent on credit balance in the banks. So you are flush with funds and, in a jurisdiction like this, you are already overweighted in local equity if you are a large fund. You are already overweighted, but you cannot go outside beyond a certain point for equity. There should be some urgent re-look at this because, as long as you have these limitations, you have problems because you do not have a dynamic system.

You have a system that is static and unable to resolve itself because:

1. there is no requirement for a prudent manager;
2. there is no requirement for an investment committee;
3. you are regulated as to how much you could invest outside; and
4. there are countries that you cannot invest in that provide at this point in time some of the best investment opportunities that are available.

So, it is a difficult situation.

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I wanted to bring this not to the attention of the administration—they are all very learned people; they are all capable of delivering solutions; yes, they will; I have heard that before—so it is not for their benefit, but I am bringing it to this Senate for the benefit of our citizens so that they can make clear, judicious choices as to the way ahead on how they invest, who they invest with, what they want for the investment management committee and so on.

These are our challenges and we must rise to the challenges; not to quote anyone, but that was the thought that came to my mind. We must rise to the challenges, and in the pension area we are not rising fast enough to the challenges that confront us. That is simply the point that I would like to make.

On the other side of foreign assets there is a phenomenon that is taking place, and that is called home bias. Home bias means if you invest too much of your pensionable asset at home there is a balance that needs to be struck, but if you keep investing too much you are giving up the opportunity to find the best returns at a certain level of risk. In home bias you end up, like we are now, where you keep pumping money back home into the system, where there are not the absorptive capacity and investment opportunities available to absorb those investments. It happens particularly in developing countries like ours where, in this particular situation, we have two private sectors: the external private sector that pension funds cannot participate in because there is not a well-developed capital market. Driving down the road into Point Fortin you see four plants, Atlantic LNG (Liquefied Natural Gas). It consumes 60 per cent of our gas production and do you know what? We cannot buy one share in that. How could any citizen driving there with one of their friends from abroad saying: “Boy, you know we own that. Yeh, this is ours, but I cannot buy one share.” So long-term savings into long-term investments must be facilitated by an effective capital market, and that is at the core of what we need to do.

Hon. Seepersad-Bachan: Senator, thank you for giving way. Mr. President, through you, I thank the Senator for giving way, but I wonder if the Senator would make a comment on what we have proposed in the budget, and that is the use of a certain percentage of the pension fund for investment in energy sector companies.

Sen. S. Ramkhelawan: I would have to be very guarded and study that a bit more before I make any definitive comments on it; save and except to say that any

framework that we put in place with proper checks and balances which will allow us to participate in the core sectors of our economy is a plus, but I will say no more beyond on that.

I want to make some commentary on what some of my learned Senators have spoken to; Sen. Lester Henry about a full inflation protected pension fund. Well, that had been thrown out in many of the enlightened jurisdictions. We cannot afford to burden generations to come with the expenses of our citizens who are retired. Reciprocal responsibility requires that they must save for their future. If they cannot do it voluntarily for their own good, administration must seek to have them do it compulsorily, if not 100 per cent in some part, not zero because we are burdening our children, our grandchildren, to pay for the sins, misdemeanours of our senior citizens.

So I am against anything that is indexed or full inflation adjusted or anything like that. In fact, in a world where our citizens are living longer, it is time that we consider whether we should increase the retirement age. Sixty is the new 50, and I think my friend, Sen. Ali, spoke about the new 75 is the new 40 or something like that. The point is, we are living longer, we are living healthier and we want to enjoy life at that time. We must have the resources to enjoy life and, therefore, part one is contribution and the other is probably working a bit longer. We need to speak to those issues now.

My learned friend, Sen. Abdullah, spoke about the defined benefit and how well it worked during the period of the crisis. That crisis was the most significant crisis in the financial system for at least, let us say about 100 years if not at least for the past 70 years. What the statistics show is that—again reciprocal responsibility—if there are surpluses in a defined contribution plan, all benefit. If the plan has not done as well you share the benefit, and, you share the responsibility and the burden. From a policy perspective, I think it makes more sense. I lean more towards a defined contribution plan.

I want to turn to some areas that I am less clear on, but I hope that I will get some clarity in this case from my learned friend, the hon. Minister of National Security. On several occasions it has been brought to my attention that police officers are required to retire at age 55, at least those who did not make inspector, superintendent and all those wonderful things—*[Interruption]*

Sen. Hinds: Up to the rank of inspector.

Sen. S. Ramkhelawan:—up to the rank of inspector. There are two jobs less now in terms of going up: the Commissioner of Police and the Deputy Commissioner of Police. So they have less headroom going up.

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So if these citizens start at the age of 18 and they make their 33 years or 33½ years or whatsoever and retire at 55, not achieving the rank of inspector or beyond inspector, what do they do if their pension starts at age 60? I am not sure. I am just wondering. How do they live for that five-year period? If I am correct, I am going to ask my learned friend to look into that matter and let us find a resolution. People who have served and served with distinction cannot be treated so shabbily by our public sector. I want to appeal to him to solve that problem because persons who have been accustomed to an income have to go and look for another job at age 55 to bridge the gap until pension.

I do not think that this Partnership in this enlightened age is really supportive of that, especially since this Partnership is supportive of paying \$3,000 pension to persons by dint of their achieving the age of 65, whether they have worked or whether they have not worked. Now, I am not against that. Let me make it very clear. I am happy that our senior citizens are receiving that kind of benefit, but I want to be happy that those who have served and those who have taken risk with their lives for the protection of our citizens must not be treated any less than the lowest denominator in the system.

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

Motion made, That the hon. Senator's speaking time be extended by 15 minutes. [*Hon. S. Panday*]

Question put and agreed to.

Sen. S. Ramkhelawan: Thank you, Mr. President, and I thank my colleagues. I want to conclude by making a few suggestions:

1. With respect to the legal infrastructure that the administration move expeditiously to put in place a pension fund regime;
2. With regard to the size and the state of the pension system, the greatest weakness for our economy in the long-term is the lack of a funded state pension system—
 - i. we must move to fund that pension system for the public sector; and
 - ii. that we should move expeditiously to put a contributory plan in place not only for the public sector but for all of those private citizens who do not have a pension plan.

They work every day but they do not have the benefit from their employers of a pension plan. Move to put that in compulsorily.

7.30 p.m.

We have seen many developing nations that have done that and have been able to put together a very large pool of savings to invest abroad and back into the economy as the opportunity arises. Some of the best performing economies in the world took the decision 20 and 30 years ago to have compulsory savings that go back into housing directly for the benefit of that person who has saved. We must look at that because we are not in the fortunate position to provide housing on the basis of no reciprocal responsibility.

Thirdly, our legislation and regulations must move in the direction where there are fit and proper persons on every pension fund investment committee. They must be properly qualified and have sufficient experience relative to the size of the fund that they are managing. There must be qualifications for investment managers. We have seen the debacle right in front of us for those who have invested portfolios; all of it in one company.

Now, as we say in Trinidad and Tobago, when the “mark buss who you want to pay?” It is now a situation where some are saying that the privileges of the few will trample on the rights of the many for the limited resources that we now have. There are many who wait to see the outcome of this particular matter.

I do not now speak to the merits or demerits of the demands of the proposals that are being made. I am saying that we must look for the benefits equitable to all citizens and one cannot take precedence over the other. The rights of the many cannot be trampled by the privileges being offered the few. We must have a philosophy upon which we live or die. We cannot change our philosophy every day.

As I digress a bit, what about the batting order? I started by saying that I did not want to “vup” coming in as the last batsman. What are the obligations of the Government in terms of who would participate in the limited resources—first, second, third, fourth? Is it that the public servant for whom the Government has a direct obligation should stand last in the line, or should the public servant be treated equitably and fairly and probably stand higher in the pecking order because it is the greater and direct obligation of the Government beyond the privileges of the others?

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I only ask the question. I do not make the decision or participate in the decision-making but I say to those who make the decision that they must be careful; they must be balanced and equitable in the decision-making. As our resources get more and more limited, they have to be greater thinkers.

As spin doctors, I come in batting last but I do not want, looking on the other side, to see only Muralitharan, Shane Warne, and Harbhajan Singh. What every country wants and what this country is crying out for is equitable distribution; not equal, equitable and there is a batting order in terms of obligations.

I make no pronouncement; I am simply putting the cards on the table because we all live in this nation and will stand the consequences and benefits of the decisions that our Government takes.

These are some of my thoughts on this particular Bill. I am happy to give my full support to this legislation and I hope and pray that the decisions we take collectively will redound to the long-term benefit of all our citizens so that one day they will be as fortunate as our Petrotrin workers to benefit from a plan that provides for their long-term security and well-being.

ADJOURNMENT

The Minister in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. President, I beg to move that this Senate do now adjourn to Tuesday, November 16, 2010, at 1.30 p.m., when we shall continue to debate this Bill to its conclusion and move on to debate the Finance (Amdt.) Bill.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 7.37 p.m.