

SENATE*Tuesday, April 26, 2011*

The Senate met at 10.00 a.m.

ELECTION OF PRESIDING OFFICER

Clerk of the Senate: Hon. Senators, the President of the Senate, Sen. Timothy Hamel-Smith and the Vice-President of the Senate, Mrs. Lyndira Oudit are both incapable of performing their duties. Therefore, in accordance with Standing Order 5, I now invite Senators to nominate a Senator who is not a Minister or Parliamentary Secretary to preside over today's sitting.

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. Clerk, I wish to nominate Prof. Patrick Watson.

Sen. Fitzgerald Hinds: I second the Motion.

Mr. Presiding Officer: Hon. Senators, I suggest that we suspend the Senate for 15 minutes while we put things in order.

10.05 a.m.: Senate suspended.

10.20 a.m.: Senate resumed.

PRAYERS

[MR. PRESIDING OFFICER *in the Chair*]

LEAVE OF ABSENCE

Mr. Presiding Officer: Hon. Senators, I have granted leave of absence to Sen. Fazal Karim, Sen. Rudrawatee Nan Gosine-Ramgoolam, Sen. Kevin Ramnarine and Sen. Pernelle Beckles-Robinson who are all out of the country.

SENATOR'S APPOINTMENT

Mr. Presiding Officer: Hon. Senators, I have received the following correspondence from His Excellency Timothy Hamel-Smith, Acting President and Commander-in-Chief of the Republic of Trinidad and Tobago.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH,
Acting President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

/s/ T. Hamel-Smith
Acting President.

Senator's Appointment
[MR. PRESIDING OFFICER]

Tuesday April 26, 2011

TO: MARIANO BROWNE

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

NOW, THEREFORE, I, TIMOTHY HAMEL-SMITH, Acting President as aforesaid, acting in accordance with the advice of the Leader of the Opposition, in exercise of the power vested in me by sections 40(2)(b), 44(1)(a) and 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, MARIANO BROWNE, to be temporarily a member of the Senate, with effect from 22nd April, 2011 and continuing during the period of absence from Trinidad and Tobago of the said Senator Penelope Beckles.

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 21st day of April, 2011."

Mr. Presiding Officer: Hon. Senators, I do not yet have the instruments of appointment for the other persons to be sworn in, so we will proceed directly with the swearing in of the one Senator who has been named.

OATH OF ALLEGIANCE

Senator Mariano Browne took and subscribed the Oath of Allegiance as required by law.

ABSENCE OF ACTING PRESIDENT (EXPLANATION OF)

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. Presiding Officer, thank you very much. I thought I should clear up a little matter. The Acting President is not at the President's Office at this time, however, arrangements are being made and the matter would be rectified very shortly.

ORAL ANSWERS TO QUESTIONS

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Mr. Presiding Officer, the Government can answer all the questions on the Order Paper, however, question 49 was supposed to have been answered by the hon. Minister of Foreign Affairs, but he is out of the country. Further, on Thursday, I took the draft Order Paper to the Cabinet to rectify the questions, and that draft Order Paper which I took to the Cabinet did not have question 52. Thursday it went to Cabinet, Friday was a holiday, yesterday was a

holiday. In those circumstances, question 52 was not on the draft Order Paper which I took to Cabinet. In the circumstances, we should be ready to answer question 52 on a following occasion. Thank you very much.

The following question stood on the Order Paper in the name of Sen. Fitzgerald Hinds:

Ms. Reshmi U. Ramnarine
(Details of Recommender)

52. Sen. Fitzgerald Hinds asked the hon. Minister of National Security:

Could the Minister of National Security inform the Senate of:

- (i) the name of the person who recommended Ms. Reshmi Usha Ramnarine for the position of Director/Head of the Security Intelligence Agency (SIA);
- (ii) the highest level of academic qualification Ms. Ramnarine possesses;
- (iii) the procedure followed in making her appointment to the position of Director;
- (iv) whether she was interviewed;
- (v) if the answer to (iv) above is in the affirmative, who was the interviewing officer; and
- (vi) whether Ms. Ramnarine is still employed with the SIA and if so in what capacity?

Question, by leave, deferred.

Sen. Hinds: What about question 51?

Sen. Panday: Pardon? Sorry? Sorry? Question 51? Yes, Yes, I will answer it on behalf of the hon. Minister of Science, Technology and Tertiary Education. Thank you.

Ms. Reshmi U. Ramnarine
(Details of Record of Study)

51. **Sen. Fitzgerald Hinds** asked the hon. Minister of Science, Technology and Tertiary Education:

Could the Minister kindly indicate to the Senate:

- (a) whether the record of study of Ms. Reshmi Usha Ramnarine as provided by the Principal of the University of the West Indies (UWI) actually came to his attention;
- (b) whether the information was requested from UWI by the Minister;

- (c) if the answer to (b) above is in the negative, who requested the information and why; and
- (d) the date on which the information came to his attention and what did he do with the information and why?

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Thank you very much, Mr. Presiding Officer. The answer to Part (a) of the question is yes. The answer to Part (b) of the question is yes. The answer to Part (c) question is not applicable. The answer to Part (d) of the question is the information came to the Minister's attention on January 22, 2011. The information was passed on to the Chairman of the National Security Council since it was a matter of public interest that arose at that time. Thank you very much, Mr. Presiding Officer.

Sen. Hinds: Supplemental question, Mr. Presiding Officer. Since the information went to the Chairman of the National Security Council, and it is now clear that the information was not accurate and somebody was misled, what action does the Chairman of the National Security Council, and by extension the Government, propose to take in respect of the misleading information that presented itself to her, that led to the appointment of the officer Reshmi Ramnarine?

Sen. The Hon. S. Panday: As you rightly said, what action does the Government propose to take? I wish to inform you that the Government proposes to look at the matter. Thank you.

Sen. Hinds: Supplemental question: would the hon. Minister indicate for the benefit of the citizens of this country whose minds are now perplexed by this state of affairs serious as it is, whether there is a time frame in relation to this looking into the matter as he has said?

Sen. The Hon. S. Panday: Thank you, hon. Attorney General and to the hon. Minister of National Security. The Government has in fact—I apologize to you—the Government has in fact taken action and the person concerned was relieved of her duties.

Sen. Hinds: Further supplemental. Are you saying that Reshmi Ramnarine was relieved of her duties? She was fired?

Sen. The Hon. S. Panday: Those are my instructions.

Sen. Hinds: Further supplemental. It was reported that she resigned. Are you sure that she was fired? And for what?

Sen. The Hon. S. Panday: I shall be—it is a matter that goes into another area and if you file it as a new question I shall endeavour to answer it.

Sen. Hinds: Mr. Presiding Officer, the question that is before the Senate which the hon. Minister in the Ministry of National Security decided to answer on behalf of another today is very clear, and the questions I have asked by way of supplemental all very germane, very pertinent and it is not a separate issue, would you kindly answer the question?

Sen. The Hon. S. Panday: And the answer is I am of the view it is a separate issue.

Sen. Hinds: Finally, one further supplemental. Is the Government serious about its promise of transparency and openness in Government, or is it continuing on its path of obfuscation?

Sen. The Hon. S. Panday: The Government will not follow the actions of the PNM [*Desk thumping*] and the Government intends to be transparent and we shall not follow what the PNM has done.

Juveniles in Tobago (Details of)

57. Sen. Dr. Victor Wheeler asked the hon. Minister of National Security:

Could the Minister indicate what provisions are in place for the detention of juveniles in Tobago?

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Mr. Presiding Officer. Members of this honourable Senate are advised that there is one government-run facility, the Youth Training Centre (YTC) for detaining juveniles. The YTC located in Trinidad is not regarded as a prison facility as male juveniles between the ages of 16 to 18 are placed at this institution for the purpose of rehabilitation. Consequently, all male juveniles arrested or detained in Tobago are transferred to this facility. With regard to the female juveniles detained in Tobago, they are placed at the Golden Grove Women's Prison as there exists no detention facility designated for female juvenile offenders.

To ensure the provision of an appropriate facility for both adult and juvenile offenders in Tobago, plans are afoot to construct a new correctional institution that will cater for the multiple correctional needs of the island. It is envisaged that this new institution will provide accommodation for a maximum of 300 inmates, adult male and female inmates, as well as both male and female juvenile offenders.

The juvenile unit, a significant component of the facility, will be designed specifically to treat with the needs of young offenders with the implementation of correctional programmes. These programmes are geared towards the holistic development of young offenders by harnessing skills relevant to current trends in the industry.

Academic and technical vocational training as well as reformatory initiatives are expected to be incorporated in the programme designed to nurture mental wellness. This technical vocational training will include upholstery, information technology, hairdressing and electrical installation among others. To facilitate these programmes, the unit will be equipped with training rooms, classrooms for academic work, craft and skills training activity and space for outdoor activities, auditorium, audio-visual rooms, as well as a dormitory style setting for both male and female offenders.

The Government recognizes the need for transforming the minds of these youths and fulfilling its mandate of reducing the recidivism rate of juveniles. Towards this end the Ministry of National Security remains committed to making this project a reality. [*Desk thumping*]

**Old Grange Police Station
(Refurbishment Details)**

58. Sen. Dr. Victor Wheeler asked the hon. Minister of National Security:

- A. Could the Minister indicate to the Senate: whether there are plans to refurbish the Old Grange Police Station in Tobago;
- B. If the answer to A above is in the affirmative, could the Minister indicate:
 - (i) whether a contractor has been selected for the project; and
 - (ii) what is the expected date of completion of the refurbishment works?

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Thank you, Mr. Presiding Officer. Hon. Senators are advised that the Old Grange Police Station in Tobago was one of 19 stations included in the UdeCott reconstruction building programme which is currently under review. As a result of the ongoing review, no concrete details can be provided at present on the project. Question B(i) not applicable; B(ii) not applicable.

Sen. Dr. Wheeler: Supplemental: currently the policemen who were stationed at Old Grange are housed in a temporary location. Could the Minister state what timeline he has for completing this review, so that the new construction will start?

10.35 a.m.

Sen. The Hon. Brig. J. Sandy: Mr. Presiding Officer, as I indicated earlier, as a result of the ongoing review, no concrete details can be provided at present on any area with respect to that project.

**Scarborough Police Station
(Refurbishment Details)**

59. Sen. Dr. Wheeler asked the hon. Minister of National Security:

Could the Minister indicate:

- (a) whether there are plans to refurbish the Scarborough Police Station?
- (b) if the answer to (a) above is in the affirmative, could the Minister state:
 - (i) the expected commencement date of the refurbishment works; and
 - (ii) the estimated date of completion?

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Hon. Senators are advised that the Scarborough Police Station has been identified for refurbishment as part of the Trinidad and Tobago Police Refurbishment Projects for the fiscal year 2011.

The Trinidad and Tobago Police Service is currently in the process of undertaking a physical assessment of the Scarborough Police Station to determine the scope of remedial works required. The assessment and tendering processes are expected to be completed by April 29, 2011 and refurbishment works are projected to commence in May 2011.

An estimated date for completion of refurbishment works is contingent upon the assessment of works to be carried out at the station. In light of the fact that this exercise is currently ongoing, details related to the precise completion are unavailable at present.

ARRANGEMENT OF BUSINESS

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Thank you very much, Mr. Presiding Officer. In accordance with Standing Order 20(4), I beg to move that the Senate proceed to deal with Government Business instead of Private Business. On the last occasion, I spoke to Senators on the opposite side and we had agreed to embark upon this process.

Agreed to.

**FINANCIAL INTELLIGENCE UNIT OF TRINIDAD AND
TOBAGO (AMDT.) (NO. 2) BILL**

Order for second reading read.

The Attorney General (Sen. The Hon. Anand Ramlogan): Thank you very much, Mr. Presiding Officer. I beg to move,

That a Bill to amend the Financial Intelligence Unit of Trinidad and Tobago Act, 2009, be now read a second time.

I rise before this honourable Senate to present the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) (No. 2) Bill, 2011 within the context of the need to enhance our compliance with the FATF recommendations on money laundering and the nine special recommendations that deal with the question of the financing of terrorism.

FATF is the international body charged with responsibility for laying down the ground rules to be applied by states to combat the financing of terrorism and money laundering practices. These recommendations have been the subject of much debate in our Parliament and we have had, in the last six years, a number of attempts to comply with the FATF requirements commencing with the Proceeds of Crime Act in 2005 and, of course, ending with the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) Act No. 3 of 2011.

In spite of our attempt to secure compliance and approval with the FATF, the international body, several strategic deficiencies were outlined in our legislation and the failure to fully operationalize the Financial Intelligence Unit led to our arriving in a grey zone that is perhaps very close to the unwanted blacklist and perhaps a little way off the green zone in which we are comfortably ensconced in satisfactory approval from the FATF organization.

The specific compliance mechanisms included in this Bill are designed to eliminate the shortcomings and deficiencies in our compliance rating and requirements by the FATF organization. They are designed to promote the advancement and operationalization of the FIU because, sadly, although the FIU was created and established, not much was actually done to operationalize it to have it up and running. By and large, it remained a paper institution and, in many respects, no genuine and meaningful attempts were made to have it operationalized. When steps were taken, unfortunately, Trinidad and Tobago got off to a false start in attempting to operationalize the FIU. Part of this legislation attempts now to rectify that false start and put on an even keel all that has happened in the past.

We also wish to vest the FIU with the power to impose administrative sanctions on certain bodies for non-compliance with their legislative obligations. This was obviously a glaring omission in the previous Act because there was not much point in having a Financial Intelligence Unit that was there but unable in law to issue appropriate administrative directives, guidelines and sanctions for non-compliance with the legislative obligations.

Lastly, we wish to establish the functions and powers of the FIU and to locate it firmly and squarely with a supervisory jurisdiction as required by the FATF recommendations.

Mr. Presiding Officer, section 28(1) of the Financial Intelligence Unit Act, 2009 imposed an obligation on the relevant Minister to review the operation of the Act and there was a one-year annual review clause. Of course, we are overdue with that clause and this is our attempt to undertake a comprehensive review of the legislation. That comes on the heels of several meetings we have had with the FATF organization, both the CFATF, which is the Caricom Caribbean Regional Organization that spearheads the monitoring process for Caribbean countries with respect to FATF compliance and, indeed, the international FATF organization.

The hon. gentleman and Senator sitting to my left, Sen. the Hon. Brig. John Sandy, has made several trips outside of this jurisdiction, reaching as far as Paris and the United States of America to meet on a one-to-one basis with the FATF delegations and committees to hammer out a way forward to get their approval on what we are proposing to do with the legislation so that we can have beforehand the determined and studied approval of FATF in terms of these legislative proposals. I pay tribute to the hon. Senator for his efforts in this regard in leading the charge to ensure that this country is not blacklisted by FATF.

Pursuant to section 28 and the Annual Review Promises in the FIU Act, this Government commissioned an inter-ministerial committee comprising senior Government Ministers and technocrats from the Ministries of the Attorney General, Finance and National Security to review this legislation and to come up with proposals. The proposals are designed to strengthen the legislation to allow the FIU to function and operate effectively; to correct and rectify omissions from the previous Act; and to establish a new supervisory jurisdiction for the FIU, one that will allow the FIU to have some teeth in terms of its supervision of listed businesses.

In reviewing the operations of the FIU, the ministerial teams encountered several problems posed by the old Act, challenges which emerged based on the FATF requirements and what we had passed in the old law. We examined the models

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adopted by various countries and the administration as opposed to the hybrid models—the pros and cons attached to both. We looked at the philosophical approach to having an FIU in a country such as ours, given the financial regulatory regimes already in place and the legislation that was already enacted by this Parliament to deal with supervision of financial institutions.

We also examined the various proposals that had emerged when this issue was considered and debated as to whether the FIU should take an incarnation of a body corporate or perhaps an independent body or commission, and it was felt that at this time it was better to retain what exists and build upon it having regard to the exigencies of the situation at this point.

Implementation issues, including certain aspects of staffing, for example a hybrid model FIU, the legal environment given Trinidad and Tobago's own legal system where we have, for example, a written Constitution, an independent service commission with Public Service Commission regulations that govern and apply to the procedures for recruitment, appointment, disciplining, transfer of any public officer; the manner and appointment of leadership and staff and other grey areas where there was clearly a need for clarification in the law in going forward.

These issues were examined against the urgent need to meet the expectations and requirements of FATF and to put the FIU into high gear as a matter of urgency. Information on the different approaches taken by states, both within the Commonwealth Caribbean and elsewhere, whereby they have received positive FATF approval for their models and their legislation were looked at and critically examined and, arising out of that exercise, we sought to achieve a model for Trinidad and Tobago given our peculiar and unique legal environment.

It is a matter of public record that the next FATF evaluation is due for early June 2011. At that meeting, there will be little or no room for maneuvering or making of excuses. Trinidad and Tobago has been given ample opportunity to get its house in order and a lot of time to ensure it complies with FATF requirements. It is, therefore, with a degree and sense of urgency that this Bill is being piloted today before this honourable Senate to ensure that we now make sure of the limited elbow room that has been given to us by FATF courtesy the efforts of this Government, so that we can negotiate ourselves to a safe way and halfway house as it were.

Speedy decision making is required if we are not to be further prejudiced by the evaluation ratings based on the present state of affairs and the status quo that this administration inherited. It is in those circumstances that we have retained the basic tenets of the Act and sought to impose new provisions that would strengthen

the skeleton and the backbone of the FIU, while at the same time ensuring that the supervisory jurisdiction that is given to it is consonant with the principle of separation of powers so that the FIU does not infringe on the sole and exclusive jurisdiction granted to the courts of this country under the Supreme Court of Judicature Act and the Constitution of this land.

10.50 a.m.

Mr. Presiding Officer, the complexity of this matter is, perhaps, best illustrated by the piecemeal approach taken to legislation enacted by the Parliament of this country. It started, of course, with the Proceeds of Crime Act and it is in that Act you will find—as opposed to the Financial Intelligence Unit Act—the power given to the FIU to actually deal with the question of money laundering; you then have the Anti-Terrorism Act and the Financial Obligations Regulations 2010. So you could see it is a hodgepodge and patchwork of legislation, as it were, all coming together to form a jigsaw puzzle that must be looked at in a holistic manner, and when the panoramic overview is taken then one understands Trinidad and Tobago’s true position in the context of its need to comply with the FATF recommendations.

Mr. Presiding Officer, the obligation of the FIU to combat money laundering through the services offered by financial institutions and listed businesses is contained in the Proceeds of Crime Act and the Financial Obligations regulations made pursuant to section 56 of the Proceeds of Crime Act. That Act and the Anti-Terrorism Act also contain cross-referencing, as it were, that deal with the powers, functions and duties of the FIU. And that is why I say that it is a patchwork, a piecemeal approach to legislation that we have been really, clearly, as a country, struggling to come up with a comprehensive legislative regime to deal with the scourge of money laundering and the financing of terrorism.

Happily, the amendments proposed will go a long way towards bringing the country out of, hopefully, what is the grey zone that we find ourselves in, so that we can, in fact, rise with the rest of the international community towards becoming FATF compliant in a manner that is satisfactory and acceptable to the organization.

Mr. Presiding Officer, the complete scope of the FIUs authority with respect to money laundering is to be found in these various pieces of legislation and what we are now seeking to do is to build on the various strands that are contained in these laws, and to ensure that we strengthen the FIU now in light of the deficiencies that have revealed themselves given the legislation that existed in the past.

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This is not the first time we have come to this Parliament. We came to the Parliament with Act No. 23 of 2011, you may recall, with an amendment to section 8 of the Act which was designed to empower the FIU to perform its supervisory functions in relation to the categories of businesses identified by the FATF organization as being, perhaps, the most vulnerable in the business world in Trinidad and Tobago. And these are the businesses that they felt were most vulnerable and susceptible to money laundering and the financing of terrorism.

So that first amendment was done in an effort to identify and to create a catalogue of businesses that we felt were most susceptible to the question of money laundering and the financing of terrorism. In that debate we promised to come back to Parliament pursuant to the annual review promised in the FIU Act. We promised to come back in a short space of time with a review and overhaul of the Act itself. I am pleased to say that the People's Partnership has kept its promise in that regard and, therefore, we are here today with these amendments, and I am piloting the Bill to do precisely that, that is to review the Act and strengthen the operations of the FIU.

Mr. Presiding Officer, the Financial Action Task Force recommendations 12, 16, 24 and 25 deal specifically with designated non-financial institutions and business professionals. These are defined by the Financial Action Task Force to include the following—and you will note, Mr. Presiding Officer, there is a common thread that runs through these businesses; some of them engage in particularly large cash transactions, many of them are unregulated in our country and have been allowed to function without any monitoring or supervision and I suppose that is why the FATF organization highlighted and identified these specific businesses as ones which should come under the supervisory jurisdiction of the FIU—real estate agents, motor vehicle sales companies, money or value transfer services, dealers in precious metals and precious stones, lawyers, notaries, other independent legal professionals and accountants, casinos or gaming houses, pool betting, national lotteries online betting games, jewellery, private members clubs, art dealers, trust and company service providers, and businesses of that like.

Mr. Presiding Officer, for quite some time in this country whereas you have legitimate business operating in these areas, you would find that there have been complaints from the legitimate business operators in these areas that there may be other businesses that are in competition with them, but that are inexplicably competing with them because they are able to either sell goods and services identical to those being provided by the legitimate business entities and they are able to provide it at sometimes below cost price, or they are able to entertain and

engage in transactions where the legitimate businesses could not themselves compete because they feared or suspected that all was not well, yet still, they can go elsewhere and get it done with impunity and with all approvals you can have it done.

The money or value transfer services—there is no limit to how much money one can send by money transfer and I do not know that anyone has been monitoring the transfer of money utilizing that kind of service. The real estate market, no one knows how some individuals or organizations amass quite a sizable fortune through real estate with no known legitimate source of income, with no known source of employment. And that is how dirty money is, perhaps, laundered, because you buy a property and then you resell it after a little time, and by virtue of the fact that you are able to resell the property, you can point to a legitimate source of the money that you get when you sell the property. But that conveniently and neatly bypasses the fact that you cannot point to a legitimate source for the funds that you utilized when you purchased the property in the first place.

Similarly, there are legitimate jewellers and some of them complain about how others may operate in terms of purchasing gold on the open market. For some time there have been concerns expressed by the police service that the snatching of chains, necklaces, “beras” and what have you, where does it all go? Why is it sometimes you are not able to identify your jewellery, even when the police actually catch the bandit, and you point them out on the ID parade? Sometimes part of the reason, given to us by the police, is that it is sold sometimes to illegitimate business operators who melt it and make new pieces and then they resell it legitimately.

So, this kind of suspicious business activity, not to be confused, of course, with those legitimate persons who are, in fact, being driven out of business by those illegitimate persons who are set up alongside and compete with them but really are there as a front to wash and launder dirty money and to use as a front for the financing of crime and terrorism, and that is what we are seeking to deal with here.

When one thinks, for example, about the growth and expansion of the lotteries; online power ball, what have you, Mr. Presiding Officer, there is no limit in terms of how much money one can bet, but when you bet, there is a legitimate return and a source to the funds in terms of what you win, but it is not unknown in this country that the mathematical probability is such that some people have actually done scientific and mathematical calculations based on the

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law of probabilities. And they actually “mind a mark”, and you could bet as much as you want in the hope that one day that “mark” will play. But given the amount of money you are betting, when that mark does play and you win, you are reaping a serious return; it is a whirlwind. So all that you lose, you get back and even if you lose some it does not matter because what you are seeking to do is to get a legitimate source for the money that you will get in your possession. So there are people betting big money and “minding mark”. They were doing that since the days of “Play Whe”, when “Play Whe” was illegal. [*Interruption*]

Hon. Senators: “Whe Whe”.

Sen. The Hon. A. Ramlogan: “Whe Whe”, yes. I am reliably informed by those who have a little more experience in that department. [*Laughter*] But the “Whe Whe” turf in the rural areas and the question of “minding a mark” has always been part of the local culture in this country. But now there are persons who have this down to a precise and exact science. [*Crosstalk*] I see some of my colleagues on the Independent Bench laughing knowingly at the existence of the practice. [*Laughter*]

Mr. Presiding Officer, in recommendations 12 and 16, states are required, among other things, to apply to these businesses obligations, for customer due diligence, record keeping, internal systems and procedures and suspicious transaction reporting in the same manner in which they are made obligatory for financial institutions.

As the law now stands, Mr. Presiding Officer, the obligations are applicable to financial institutions and listed businesses alike. But the Financial Action Task Force also requires, under recommendation 24, that member states put in place effective systems for monitoring and ensuring that listed businesses comply with their requirements. However, each state is free to adopt its own type of framework for so doing.

Recommendation 25 requires states to ensure that competent authorities issue guidelines and provide feedback to assist them in applying the measures to effectively combat money laundering and terrorist financing. The Financial Obligations Regulations promulgated in 2010 have achieved consistency with the foregoing recommendations.

Mr. Presiding Officer, the existing regime for listed businesses, recommendation 9, focuses on the establishment and powers of the supervisory authority to regulate those businesses which are required to be supervised by the FIU. The supervisory authority of the financial institutions that fall within the

licensing regime of the Central Bank present no challenge. We already have in place a system whereby the Central Bank monitors the banks and the financial institutions that come within the purview of the Financial Institutions Act 2008 and the authority that the bank is empowered to exercise in its capacity as licensor of the financial institution to which that Act applies.

The businesses identified by FATF do not, necessarily, come within the ageis of an existing regulatory framework or in a standard and manner that meet with FATF's approval. In this regard, permit me to highlight a few pieces of legislation that already exist regarding some of the listed businesses. We have gaming houses and pool betting which are required to be registered by the Gaming and Betting Act, Chap. 11:19, but of course, there are no licensing provisions there; the National Lotteries Act; the Precious Stones Act, but there are no regulatory mechanisms again in that Act; private members clubs fall within the Registration of Clubs Act, but again there are no regulatory mechanisms there; attorneys and other professions are self-regulatory but there is no legislation to govern them in terms of the FATF requirements and the FIU Act itself.

Mr. Presiding Officer, one of the functions that is important in the context of FAFT is to liaise with regulatory bodies that do exist, to ensure that their own capacity is strengthened. So that the regulatory bodies that exist over some of these businesses can, in fact, design their own monitoring and supervisory mechanisms in a way that complies and is consistent with the legislation. We are hoping that the FIU will seek to harmonize the self-regulation by some of these bodies in a way that would assist it in its supervisory duties under the Act.

11.05 a.m.

I take you now to the Bill before the House. Section 13 of the Constitution stipulates the procedures that must be followed when a government is passing legislation that requires a special majority. Of course, we have appropriately followed that.

Clause 4 seeks to deal with the current long title, and we have amended it to reflect and encompass the expanded remit of the FIU, to take into account the need to combat the financing of terrorism. There were no policy measures as yet in place, you may recall, to combat or deal with the issue of the financing of terrorism, because such measures had not yet been formulated. The long title of the Bill should reflect the proper scope of the FIU's functions and, as such, we have amended that to mention and make reference to money laundering, the financing of terrorism and related matters.

The definition clause—we have inserted a number of new definitions to take into account the international environment in which we are operating, and it is in that regard we have defined the Egmont Group, as meaning a group of financial intelligence units which subscribe to the Egmont principles for information exchange and financial intelligence for money laundering cases.

We have defined the Financial Action Task Force, which means a task force established by the Group of Seven to develop and provide national and international policies to combat money laundering and terrorist financing.

Financing of terrorism has the meaning assigned to it in the Anti-Terrorism Act. “Financial institution” has the meaning assigned to it in the Act, and “foreign financial institution” means a competent authority which, in a country outside of Trinidad and Tobago, exercises functions similar to those of our FIU.

We have defined law enforcement authority. It now means the Commissioner of Police, the Comptroller of Customs and Excise, Chairman of the Board of Inland Revenue, Chief Immigration Officer or any other body in which coercive law enforcement powers are lawfully vested. We thought that we would insert a catch-all provision “any other body in which coercive law enforcement powers are lawfully vested”, so that we may take into account any other state agency that has coercive powers that we may need to tap into to deal with money laundering and the financing of terrorism.

Non-regulated financial institution—a society regulated under the Co-operative Societies Act, a person who carries on a postal service and a building society registered under the Building Societies Act. Mr. Presiding Officer, the supervisory powers of the FIU which are exercisable over listed businesses identified as high-risk business operations, in the context of money laundering and the financing of terrorism, as has been pointed out, has been expanded. I will come to that in due course.

You would see that we have now included credit unions, postal services and building societies. These institutions are now defined as “non-regulated financial institutions” in the Bill. The terminology does not mean that they all operate without any form of supervision or regulation. Credit unions, for example, fall under the jurisdiction of the Commissioner of Cooperatives. What we are seeking to do in this Bill is to have these businesses regulated and supervised by the FIU for the purpose of securing compliance with the requirements of this particular Bill.

I mentioned this specifically because there has been some comment and much ado about the fact that credit unions, building societies and the postal services will now fall under the jurisdiction and remit of the FIU. It is falling under the FIU only

for the limited purpose of securing compliance with the requirement of this particular piece of legislation. It is not going beyond and outside of that. It is not that there will be any trespass on the powers and duties, for example, of the Commissioner of Cooperatives. *[Interruption]*

[MADAM VICE-PRESIDENT *in the Chair*]

In the other place an amendment was proposed to include building societies, and we have done that. The term “law enforcement authority”, as I mentioned, has been expanded and now defined.

I take you now to clause 6 of the Bill, which deals with the question of the appointment of officers, which was previously section 3 of the Act itself. We are now seeking to address some of the confusion that arose as a result of the way that section was drafted.

Madam Vice-President, welcome and thank you for joining us. *[Laughter]* We see that in the other place this FIU (Amdt.) Bill before this honourable Chamber was unanimously passed. That was so because there were several meetings and consultations with the Opposition. We attempted to achieve some consensus and adopt a collaborative approach, so that we could find some middle ground, as it were. We compromised in the public interest and for the greater good, so we have come forward to this Senate with a Bill that was unanimously passed in the other place with the full support and backing of the elected Chamber.

Among the amendments that had been originally proposed, for example, was the placement of the FIU within a different ministry, namely that of the Attorney General. It was felt that in some countries it is located in the Ministry of the Attorney General or the Ministry of Justice. Of course, it is a matter where there is no fixed solution; it is really a matter of the prerogative of any government, but it was felt that the legal environment in which the FIU would have to operate, having regard to its supervisory functions and new duties, would perhaps make it better suited for one of the legal ministries and the Ministry of the Attorney General.

We have compromised and acceded to say, “Look, let it remain in the Ministry of Finance.” There will still be a close liaison and working relationship with the Ministry of the Attorney General, because the central authority is with the Ministry of the Attorney General. They need to have MLAS’ (Mutual Legal Assistance) requests and a close cooperation and working relationship with the central authority and, perhaps, even the Anti-Corruption Bureau, is one that would still be necessary.

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However, the working relationship between the various ministries that would require, for example, the Ministry of National Security and the Ministry of the Attorney General, will continue and, in fact, be strengthened. Because what we, perhaps, would do is to have some linkages to ensure that the support mechanisms from the various entities in the State's apparatus are there to support the FIU and give it the kind of support and ancillary services that it may require from time to time.

Madam Vice-President, I take you now to clause 7 of the Bill. This clause is the one that clarifies the appointment process. You may recall there has been much controversy surrounding the appointment. It is a matter of public record that the Chairman of the Public Service Commission had indicated, in response to concerns expressed by the Opposition, that there was some ambiguity about that process, because the role and function of the Public Services Commission, if any, was not clearly spelt out. There was correspondence from the Chairman of the Public Service Commission addressed to the Government which sought to clarify that ambiguity.

The procedure adopted by the Government in seeking to have some kind of stopgap measure to it, to ensure that we do not fall into a black hole as it were, was one based on precedents established in the past, and we appointed on contract a one-year temporary appointment to the Office of Director of the FIU. In so doing we had been advised by those who have the institutional memory of these things that was the correct procedure to adopt, and we were also legally advised that was perfectly within the powers of the Cabinet of the country.

The Public Service Commission had received different legal advice. I am happy to say that we have struck a compromise whereby we will clarify in the legislation the role of the Public Service Commission and now vest exclusive jurisdiction to the Commission to appoint the Office of Director and Deputy Director of the FIU.

We have also provided for the Permanent Secretary to appoint other members of staff, in consultation with the director to retain consultants and experts, on the advice of the director, on a contract basis, in accordance with guidelines issued by the CPO from time to time. We have retained the provision that allows for the secondment and transfer of public officers who may wish to serve on the FIU.

Section 3(2) of the Act is the one that created the controversy. I think this clarification, important as it is, is one that would perhaps resolve it now. A further amendment was proposed in the other place, and that had to do with the question

of what role, if any, contract officers would play in the FIU. We have come up with a mix and a hybrid approach, because we must operationalize the FIU very quickly, in the shortest possible space of time. The Public Service Commission will appoint the director and deputy director. The Commission may or may not be involved in the appointment of the rest of the staff, but the Permanent Secretary, in accordance with the usual practice for the recruitment of staff, will now have a significant role to play in operationalizing the FIU, in consultation with the director.

Madam Vice-President, we amended the oath of office and secrecy to accept a recommendation from the Opposition in the other place. [*Desk thumping*] That oath, in the spirit of compromise, will now take the form of the oath that exists in the Integrity Commission Act, and it will now take into account the need for confidentiality and would also reflect the authorized disclosure of information that comes to the FIU, based on accepted principles known to us in existence with the law.

Madam Vice- President, clause 9 will remove the heading to Part III of the Act from its present position over section 7, and place it over section 8. [*Interruption*]

Sen. Prescott SC: Excuse me, please, Senator. May I just seek some clarification on the reference to the oath of office and secrecy? Could the Attorney General tell us whether it is intended that we should no longer have the existing form of the oath of office and it is to be replaced by the oath of secrecy? It seems to me that they are both addressing different things, both of which are essential, and I am not certain that we are left with one and not the other.

11.20 a.m.

Sen. The Hon. A. Ramlogan: The oath will in fact be replaced by the new oath that is here, but I think it adequately—yes for the FIU—and what it does—it is for the FIU itself—but what it does it incorporates—if I may just read it, it incorporates both the secrecy and confidentiality requirements, as one would expect, but I believe the Opposition’s concern, in the other place, was the issue of the disclosure of that information. So, what we have done now is to incorporate the wording of the oath that is taken by the Integrity Commission—the Commissioners who serve in the Integrity Commission. It reads that they:

“... solemnly and sincerely swear ... that they will faithfully and honestly (they would) perform the duties that will devolve on me by reason of my employment in the civil service and I will treat all documents and reports filed with the FIU and all reports and all records of information relating thereto as

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secret and confidential and I will not disclose to any unauthorized person or allow any such person to have access to any such document, report, record or information so help me God.”

So, I do not think—it is not deficient, we acceded to the request in the spirit of compromise but it builds really on what was previously there and I do not see any aspect of it is left out.

Sen. Prescott SC.: Permit me a further query.

Sen. The Hon. A. Ramlogan: Sure.

Sen. Prescott SC: Madam Vice-President, the existing oath speaks to bearing true faith and allegiance to the Constitution, and discharging the functions of the office. If it is being removed altogether, I think it is important to tell us why it is that people are no longer required to say that—“that I shall bear true faith and allegiance to the Constitution and discharge the functions of my office”, and merely say, “I will retain the secret and confidential information which is given to me”. It seems to me that both could have been brought together. I do not know if that has been thought of and that is removed altogether.

Sen. The Hon. A. Ramlogan: That is in fact what we originally had, but we acceded to—one has to compromise, there is give and take in discussing these matters with our learned friends on the opposite side, and in the spirit of compromise this was insisted upon, very strongly by the Opposition, as being the form that they wanted—the oath to take—and we acceded to that. Whether someone says that they bear true faith and allegiance to the Constitution or not, I would think that the Constitution being the supreme law of the land, one would in any event have to observe it as part and parcel of the law of the land. Speaking for myself, we did see merit and we had that in place, I would leave it for my learned friends on the other side on the Opposition Bench to perhaps be persuaded by your contribution, Senator, in that regard, but that was in fact a direct concession, as it were, to the Opposition in this regard.

I was on clause 9 and I was dealing with the rather innocuous removal of the heading to Part III because what had happened is that the heading that was followed by clause 8 and the substance of that related to terms and conditions of service for the director and deputy director. So the heading Functions and Powers of the FIU, really has no relevance to the terms and conditions of service for the deputy director and director. That heading has been removed and placed lower down.

Clause 10 of the Bill would amend a cross-reference in section 11 of the Act. Section 11 deals with powers of the FIU and now provides:

“Where, after the analysis of a suspicious transaction or suspicious activity report from a financial institution or listed business in accordance with section 8(3)(b), the Director is of the view that further information may disclose that a specified offence has been or may be committed or the proceeds of crime are or may be located within Trinidad and Tobago or elsewhere, he may—

(a) request further information from a financial institution or listed business within a specified time, which information shall be provided accordingly; or

(b) take action in accordance with section 15”—

section 15 being the relevant section now.

Madam Vice-President, section 11 of the Act provides that where a financial institution or listed business does not provide the FIU with information it has requested, it may only refer the matter for investigation under section 15. Section 15 states that:

“...where the Director is of the view that the circumstances warrant an investigation, a report shall be submitted to the relevant law enforcement authority for investigation to determine whether a money laundering offence has been committed, or whether the proceeds of crime are located in Trinidad and Tobago or elsewhere.”

The Act creates a certain number of offences, but offences are not a regulatory tool per se. The remedy given in section 12 for non-response to a request for further information is the right to refer the matter to a law enforcement body for investigation.

But the supervisory role of the FIU calls for a different approach. It requires the power to approach the High Court for an order with coercive character and force and effect mandating the financial institution or listed business to comply with the requests made by the FIU and so on.

So, what we see is the FIU as presently exists, having no recourse or partnership with the courts to ensure and secure compliance with the Act. That now, you will see, has been changed.

Clause 11 of the Bill, Madam Vice-President, repeals and replaces section 12 to provide the FIU with teeth that it needs to become more effective. The criminal

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charge will not be the only recourse available to the FIU for non-compliance. The proposed new section 12 will read as follows:

“where a financial institution or listed business fails to provide any information or refuses to produce any documents required by the FIU under sections 8, 3 and 11, the FIU may apply to the High Court for an order to require the financial institution or listed business to disclose the information requested by the FIU.”

After debate in the other place, we have now instituted some procedural safeguards and additional procedural steps whenever we have to approach the court and invoke the coercive powers on the court and we have now put in place a tiered approach.

So before the application is made to the court, you must give notice in writing to the listed business under consideration. An application made having regard to the sensitive nature of such an application, which if it is really—if it is published in the newspapers—can cause a run on the institution and a loss of investor confidence—what we have done is to say that you must have that hearing in camera or meaning without anyone from the public being able to be present and report on it.

A financial institution or listed business which refuses to comply with an order of the court—not the FIU, but an order of the court—they commit an offence and may be liable on conviction to a fine of \$250,000 and imprisonment for three years. So, this is to have some deterrence and to ensure that there is some measure of teeth in the legislation to allow the FIU to actually secure compliance from listed businesses.

I wish to indicate that two amendments to the original clause 11 were made. The application was firstly going to be made *ex parte*—meaning in the absence of the other side—and what we have done as a result of the debate in the other place, Madam Vice-President, is to now remove the *ex parte* procedure and to ensure that it would be done *inter partes* and that will ensure that the business that is subject to the court application will now have an opportunity to be heard and put their case before the court. In other words, natural justice, as we know it, will now prevail.

The other amendment which was made is to give the business some prior notice before you actually go to court. It was felt that although that would have been an administrative step that would have been required as a matter of course, it

was felt that having regard to the serious consequences for the listed business that it would be wise to perhaps give them, in law, a right to be notified as a matter of law. So that, before you can take them to court the FIU would have to now notify them as it were.

Clause 12 of the Bill will amend section 14 and that section 14 which was already there in the existing law, which made provision for the FIU in certain circumstances to instruct financial institutions or listed businesses in writing to suspend the processing of a suspicious transaction, for a period now not exceeding five days—we upped it from three to five—pending the completion of an analysis or an evaluation of the suspicious transaction or the suspicious activity report.

It was felt that three days was too short a period, and that after three days you can still—once you have gotten the thin edge of the wedge beneath the door—you can still actually push through once the three days have expired and a little more time should be given to the FIU to analyze properly the transaction, Madam Vice-President.

11.30 a.m.

The social responsibility and the public concerns about the threat posed by money laundering and the financing of terrorism are such that pressing the pause button—to press pause on a suspicious transaction and to hold it in a state of abeyance for a period of five days is not, we think, something that is too harsh, given what the objectives of this Act are and the kind of suspicious activity it would be targeting.

I take you next to clause 13. Clause 13 would amend section 15 by deleting subsection (3) and it would deal with after the FIU has conducted its analysis or evaluation of a suspicious transaction or activity report and where the director is of the view that an investigation is warranted they may refer it to a law enforcement authority or agency for investigation to determine whether a money laundering offence has been committed or whether the proceeds of crime are located in Trinidad and Tobago or perhaps even elsewhere.

A department or agency of Government to which a report is submitted under subsection (1) shall take appropriate action. We have in fact deleted that the Minister with responsibility for national security may by order prescribe the law enforcement authorities. The reason being, we have in fact inserted them in the definition section and created a catch-all provision that would allow for any law enforcement authority with coercive powers to be in receipt of a request to investigate a matter.

Madam Vice-President, clause 14 of the Bill would amend section 17 of the Act, and as a consequence of the amendment to section 8 by Act 3 of 2011, the amendment to the said section 8 earlier this year vested the FIU with functions under the Anti-Terrorism Act and section 17 of the Act now deals with the publication requirements; publication in the *Gazette* and at least two daily newspapers in daily circulation in Trinidad and Tobago. A list of the countries identified by FATF as being non-compliant; a consolidated list of all financial institutions and listed businesses against which an order is in effect declaring that such institution or business is to be listed as an entity under the Anti-Terrorism Act and periodic information and trends and typologies of money laundering locally and internationally as well as appropriate statistics and any other information that would enhance public awareness and understanding of the nature of money laundering and its offences.

This new provision vests the FIU with responsibility to maintain a list of both local and foreign entities with whom or which have been designated by the court as being entities which are prohibited from undertaking such transactions. One of the changes made was with respect to the publication in the *Gazette* and at least two daily newspapers in Trinidad and Tobago. It was felt that—this is apart from the *Gazette*—it would be more appropriate to advertise in the local newspapers, because although the *Gazette* has a legal significance and connotation, the reality is, publishing something in the *Gazette* is not really a good way to bring it to the attention of the people—of John Public as it were—because they do not really read the *Gazette*, so we are hoping that by publishing it in the newspapers that would achieve the objective in a more meaningful way.

Part IIIA: this new part seeks to introduce—this is clause 15—seven new sections and these seven new sections deal with the question of the supervisory jurisdiction of the FIU.

“Monitor means to observe for the purpose of compliance with this Act.”

The Supervisory Authority, of course, is defined as the FIU. All listed businesses must now register with the FIU in accordance with a prescribed procedure. The FIU shall maintain that register for all listed businesses; suspicious activity and suspicious transactions in the course of carrying out its functions, whenever it acquires knowledge or has reasonable grounds to suspect that a person or business is engaged in business relative to money laundering or financing of terrorism, it shall request the investigation from a relevant law enforcement authority as soon as practicable, but in any event before the expiration of seven working days. So that mandates the FIU itself, whenever they

are in receipt of information that leads them to believe that they have reasonable cause to suspect something is amiss they must act, the outer limit, within seven days to refer the matter.

For example, if someone was attempting to bribe an official, an officer of the FIU to hold back on it, what you would have is a seven-day limit in any event within which they must in fact refer the matter, and that would have to be, of course, brought to the attention immediately of the head of the organization.

The FIU shall effectively monitor non-regulated financial institutions and listed businesses and it shall take necessary measures to secure compliance with the following law, with this Act, and of course, the interrelated package of legislation, all of which touch and concern the issues of financing of terrorism and anti-money laundering policies. These would include the Proceeds of Crime Act; the Anti-Terrorism Act; the Financial Obligations Regulations, 2010; the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011; regulations made under the Anti-Terrorism Act and any other written laws by which the recommendations of FATF are implemented as well as guidelines issued in pursuance of this Act and the laws identified in paragraphs (a) to (e).

The FIU from time to time, can issue guidelines as to compliance with the written laws under subsection (1), and again these guidelines would be published in the *Gazette* and at least one daily newspaper in circulation in Trinidad and Tobago.

The powers of the FIU in 18F are such that it can enter unto the business premises of any non-regulated financial institution or listed business during working hours with the consent of the owner, and I want to stress with the consent of the owner, that is when the FIU can enter and it can inspect or take documents, inspect the premises and observe the manner or function in which it is performing its duties. Where there is no consent, someone above the rank of sergeant can approach the court to make an appropriate application to get a search warrant to enter the premises for these purposes.

Administrative sanctions for compliance—18G—may now issue a directive to non-regulated financial institutions to cease or refrain from committing the act or violation or pursuing the course of conduct or perform such duties in the opinion of the FIU which are necessary to remedy the situation or minimize the prejudice. Before such a directive is issued, however, to the non-regulated financial institution or listed business to whom the directive would be—to whom it would apply, it shall serve a notice and the notice would outline the facts of the matter,

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the directives that are intended or proposed to be issued, the time and place at which the non-regulated financial institution or listed business served with the notice may make representations—and that is an important procedural safeguard. Madam Vice-President, when that directive is issued it shall remain in place for 21 days and there is a regime and a procedural safeguard again for approaching the court. *[Interruption]*

You would see, Madam Vice-President, that what we have done is to create a regime, whereby, whenever one has to approach the court we will have procedural safeguards in place so that the person could be heard and so forth. Therefore, where they are aggrieved, for example, by the directive issued under subsection (4), we have compromised and inserted a new provision that would allow the listed businesses to approach the court to have the order, the directive, varied or discharged as it were, to have some sort of appellate process in place and that is something that would give some comfort to the financially listed businesses that fall under this jurisdiction.

A financial institution or listed business that refuses to comply with an order of the court will commit an offence and shall be liable to a fine of \$250,000 and to imprisonment for a period of three years.

Madam Vice-President, I take you next to the validation clause, *[Interruption]* just briefly to mention that the validation clause is one which seeks to validate past and present actions of the director and deputy director. Much has been said about this already, about the inherited position with the director and deputy director designate, which is an office that we have been advised does not exist in law and, as such, was an illegal appointment, and it also strikes a compromise in light of the concerns raised with the present appointments. Rather than have the matter litigated in court for a period of 10 years all the way to the Privy Council, the Government really has no real desire to hold on to this and is happy and comfortable with the commission dealing with the appointments.

Thank you very much.

Madam Vice-President: Hon. Attorney General, “I beg to move”.

Sen. The Hon. A. Ramlogan: Oh yes. Madam Vice-President, I beg to move.

Question proposed.

SENATORS' APPOINTMENT

Madam Vice-President: Before I have other speakers, we do have Item 3, the swearing in of new Senators—temporary Senators.

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH,
Acting President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

/s/ T. Hamel-Smith
Acting President.

TO: KEVIN BHAGALOO

WHEREAS Senator the Honourable Fazal Karim is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, TIMOTHY HAMEL-SMITH, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, KEVIN BHAGALOO, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Fazal Karim.

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 16th day of April, 2011.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH,
Acting President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

/s/ T. Hamel-Smith
Acting President.

TO: ARCHBISHOP BARBARA BURKE

WHEREAS Senator Rudrawatee Nan Ramgoolam is incapable of performing her duties as a Senator by reason of her absence from Trinidad and Tobago:

Senators' Appointment
[MADAM VICE-PRESIDENT]

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NOW, THEREFORE, I, THIMOTHY HAMEL-SMITH, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, BARBARA BURKE, to be temporarily a member of the Senate, with immediate effect and continuing during the absence from Trinidad and Tobago of the said Senator Ramgoolam.

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 16th day of April, 2011."

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency TIMOTHY HAMEL-SMITH,
Acting President and Commander-in-Chief
of the Republic of Trinidad and Tobago.

/s/ T. Hamel-Smith
Acting President.

TO: DR. VIDHYA GYAN TOTA-MAHARAJ

WHEREAS Senator Kevin Christian Ramnarine is incapable of performing his duties as Parliamentary Secretary by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, TIMOTHY HAMEL-SMITH, Acting President as aforesaid, in exercise of the power vested in me by section 40(2)(c) and section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, VIDHYA GYAN TOTA-MAHARAJ, to be temporarily a member of the Senate, with immediate effect from and continuing during the absence from Trinidad and Tobago of the said Senator Kevin Christian Ramnarine

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 26th day of April, 2011."

OATH OF ALLEGIANCE

The following Senators took and subscribed the Oath of Allegiance as required by law:

Kevin Bhagaloo, Barbara Burke and Vidhya Gyan Tota-Maharaj.

11.45 a.m.

Sen. Faris Al-Rawi: I thank you, Madam Vice-President, and to my colleagues, and I wish a warm welcome to all new Senators this morning taking the place of those who are absent. I regret they had to wait as long as they had, but happy to see them sitting opposite me on this Bench.

Madam Vice-President, I am pleased to join in the debate on the Financial Intelligence Unit (Amdt.) (No. 2) Bill, 2011. We are of course dealing with the third incarnation of legislation touching the Financial Intelligence Unit. By way of recap, I will reflect upon the fact that in 2009 we were in this Senate debating in October of that year the FIU Act as I will call it properly. That was in the context of also dealing with, I believe it was the very day before, the Proceeds of Crime Act that was number 10 of 2009, the Financial Intelligence Unit being Act No. 11 of 2009. Then following upon that in January 2010, the Anti-Terrorism Act was introduced and of course dealt with.

I make that reflection in consideration of the Attorney General's contribution that we are here today, in part, because of the piecemeal approach by which the legislation to deal with terrorism, financing of terrorism and financial intelligence has been born in this jurisdiction. Dare I say it is my own view that, in a jurisdiction such as ours, I do not think that there is any other way to deal with curing the ills of the type of mischief which we seek to manage other than by way of piecemeal developmental approach of legislation. Legislation, of course, is only one of the measures which we as a developing democracy can engage in, because we of course have the benefit of the Judiciary which of course is charged with the responsibility and, in fact, carries us by developing the common law, Madam Vice-President.

So we are here on the third occasion, the first occasion being in October, 2009. The second occasion, in fact, was in February of this year, specifically February 8, 2011. We were in this Senate dealing with what was considered then, and stated then, to be important measures to take care of an anomaly which existed in relation to transitional provisions anchored in section 34 of the Proceeds of Crime Act. That was one of the two purposes of that Bill. The other one being to correct a small cross-referencing area between sections 53 and 55 of the Act itself.

The Proceeds of Crime Act, Madam Vice-President, really bears an important position in this piece of legislation and in the context of the debate today. Because this Act, in fact, is interpreted by way of reference to the Proceeds of Crime Act

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and it is also meant to provide the relief and the efficiency measures for the implementation of part of the relief of this Act. By that I mean, it is the Proceeds of Crime Act which takes care of illicit gains and in fact deals with the forfeiture of those gains for the benefit of the State and indeed relative to compensation to injured parties, as we will see later on in the debate, I would imagine, under the trafficking in persons legislation which we will deal with shortly.

Madam Vice-President, the point is that on February 8, 2011, we were in fact met with a description which I put to the Senate, being that there was an elephant in the room. And I had stated then that we were at a disadvantage for a non-publication of a legislative agenda because we were brought to the Senate one day before the expiry of the one-year marker by which we were supposed to be in the Senate discussing, under section 28 of this Act, a review of the Act. We were at that one-year marker talking about operationalizing the FIU by reference to the Proceeds of Crime Act in section 34. That is, the FIU was meant to be the supervisory body for the Proceeds of Crime Act until a supervisory authority had been created for that Act.

I stood, respectfully, to say that it was disingenuous to bring us for that purpose and I complained bitterly then, as I do now, that we could have made better use of this Senate's time, by first of all having a publication of an agenda as to what we sought to deal with. By that we would have had the proper opportunity to consider what we should really have been considering then, but which we are supposedly considering now, and that is a review of the FIU 2009 Act. You see, Madam Vice-President, section 28 of the FIU Act, subsections (1) and (2) specifically state, and if you permit me, Madam Vice-President, it states:

“Within one year of the coming into effect of this Act, the Minister shall return to Parliament for a review, by Parliament, of the operation of this Act.

(2) The review shall be debated by Parliament with a review...”—

It should have been perhaps “a view”, but it says “a review”—

“to any amendment of the Act that may further the compliance with the Financial Action Task Force obligations of the State.”

Madam Vice-President, most respectfully I say, because I note the excellent tone of the Attorney General in his presentation, it was a conciliatory tone—I note most respectfully, that we were meant to be here on February 8, being the last date for review, 2011, to conduct a review. Now Madam Vice-President, I want to

be very simplistic and ask, how does one conduct a review without statistical information and reflection upon operational parameters and actualities? How do we conduct a review, Madam Vice-President, most respectfully?

What we are here today instead doing, under the cloak of being a review, firstly, and also under the open statement that we are at risk of blacklisting—what we are here doing really can never be, most respectfully, a review. Because we have no information to review. Nothing has been tabled to this honourable Senate which says: this is the staffing of the FIU; these are the number of officers that we employ; here is the work the FIU conducted, it being of a type called an administrative model type; here is the statistical information which we are supposed to present to you; the supervisory aspects were conducted by some other institution and here is what it found; here are the offences that were dealt with. None of that has been brought to this Senate, Madam Vice-President.

11.55 a.m.

So I cannot accept for one moment that we are here conducting—even if it is acknowledged by the hon. Attorney General—a review which he professed to be late. We cannot be conducting a review. This is in no form or fashion a review without material to be reviewed. That is, in fact, exacerbated by the timing for this review, as it is called.

Madam Vice-President, you would recall that we were in the midst of debate last Tuesday in this Senate dealing with other legislation when we were informed that this legislation, that is the FIU 2011 amendments, had to be tabled. Secondly, we were told also—and that is coming and I am not discussing it by way of anticipation—that the trafficking in human legislation had to be dealt with today; and thirdly that the Census Act had to be dealt with today, and by way of noble concession, in particular on the part of the Independents, the Private Members' Day, which is a very important day for the Opposition and for the Independents, that had to be sacrificed to facilitate Government Business, and dare I say it was happily facilitated because it is in the national interest that we avoid a blacklisting which is, in fact, upon us. But the exacerbation is because not only were we told on Tuesday last week that this was the position, but we were provided with not even proper material to reflect upon.

This Act incorporates a consideration in it of the Proceeds of Crime Act, 2009; the Anti-Terrorism Act, the FIU Regulations themselves, the Financial Obligations Regulations, 2010—the FIU Regulations, as I said, were 2011—and the Financial Obligations (Financing of Terrorism) Regulations, 2011. Six of these items referred to in this Bill, not one of us received even a copy in our Order Papers of any of that, but we are here today discussing a review.

In the civil law which is an arena of law in which I practise, we are told that when you are dealing with injunctive remedies or you are putting material before judges, that you have an obligation to make full and frank disclosure, and that in doing the full and frank disclosure, you should refer to it in the body of your affidavit, for example, and you should put the material before the judge properly. We are here today standing as arbiters of legislation and amendments under a pretext of review without even having included in our Order Papers, in the packages delivered to us, any of the documents referred to in this Bill and which form the subtext and base for our discussions. I consider that disrespectful to the hon. Senators sitting on this Bench and I consider that it is imperative that we take a higher standard.

On that note, I will please ask the hon. Leader of Government Business if he can facilitate the track changed amendment documentation that we have sometimes been using in this Senate, because it is of significant benefit to us to be able to factor the amendments in the context of the original legislation. With that said, I wish to state that the review that we are meant to be here, aside—it not, in fact, being capable of review without, (a), the material provided for review and the statistics provided to review, we are now dealing with the issue of the risk of blacklisting. The hon. Attorney General informed us that there is little room—we have been given, as he put it, a little elbow room on the table; we do not have much room for manoeuvring and that to avoid the threat of any form of negative listing or blacklisting, that we must entertain this legislation today.

But where does this come from? For the benefit of those listening to us live, I will state that this, in fact, originates from the Financial Action Task Force Review of Trinidad and Tobago, as we have been told. But I had to ask CPC who is sitting here, my learned Senior, what it was exactly that the Financial Action Task Force has said. What are the specific recommendations that they have said we must comply with? What are the deficiencies by their analysis that they say we must address? And she pointed me—and I am grateful for her assistance—to the website of the Financial Action Task Force. In fact, there are very few lines on that website which can assist us today, and permit me to read that for you. Under Trinidad and Tobago at their website it is stated:

“Despite Trinidad and Tobago’s high-level political commitment to work with the FATF and CFATF to address its strategic AML/CFT deficiencies, the FATF is not yet satisfied that Trinidad and Tobago has made sufficient progress in implementing its action plan, and certain strategic AML/CFT deficiencies remain. It is important to note that Trinidad and Tobago enacted the CFT

Regulations and FIU Regulations that the FATF has not yet examined due to the very recent nature of this action. The FATF will assess these regulations and, in any case, Trinidad and Tobago should continue to work on addressing its deficiencies, including by: (1) implementing adequate procedures to identify and freeze terrorist assets without delay (Special Recommendation III); (2) implementing adequate procedures for the confiscation of funds related to money laundering (Recommendation 3); and (3) establishing a fully operational and effectively functioning FIU, including supervisory powers (Recommendation 26). The FATF encourages Trinidad and Tobago to address its remaining deficiencies and continue the process of implementing its action plan.”

That is a very short statement as to what deficiencies we are meant to be dealing with.

Now, regrettably, we are supposed to be here to conduct a review, nothing by way of particulars has been given to us from the hon. Attorney General as to what our deficiencies are, and if one were to refer to the only statement of deficiencies that we must condescend to, and that is the FATF website itself, on each of the three heads that I have just referred you to, it says, “implementing adequate procedures”, and it speaks of an action plan.

Now, we are very fortunate today in this Senate to have the presence of the hon. Mariano Browne as a Senator here. [*Desk thumping*] He, as you know, is a man of distinction and he, in fact, had the pleasure of piloting this Bill in 2009 for the establishment of the FIU then. We will hear from him later, but what I am signalling is the fact that we can speak to what the action plan was under the People’s National Movement. We have not been given any statement by the People’s Partnership as to what its action plan is, but we do know from the FATF website itself that we are supposed to be dealing with an implementation of procedures. That is not to say that we must necessarily do what the hon. Attorney General has asked us to do.

You see, we have been asked—and if one were to crystallize this—to do a few things by the hon. Attorney General. The first thing that we have been asked to do is to modify the model of operation for the FIU. The second thing that we have been asked to do is to give a description of powers and functions of the FIU, and that, he says, is for supervisory aspects. The third thing that we are asked to do is a validation exercise with respect, in particular, to the actions of the director and deputy director of the FIU. Those are the three things that the hon. Attorney General has asked us to do.

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Remember, we are supposed to be reviewing the Act, not being permitted to review the Act without any form of statistics or operations, because, in my view, the Government would be embarrassed to come here today to tell us, “Well, we fired everybody and sent them home. We have three people operating the FIU.” In fact, in the period May 24—and I am sure you will hear a lot of that coming on May 24—which is a Tuesday—in this Senate, of this year, in the period May 24, 2010 to today’s date—June, July, August, September, October, November, December, January, February, March, now April—11 months after assuming office nothing has been done in the FIU by way of positive action. What instead has been done is that it has been denuded, firstly, of persons who were employed there and, secondly, the operational arm that managed the FIU, the Financial Intelligence Unit which operated under SAUTT, the Special Anti-Crime Unit of Trinidad and Tobago, that was thrown away.

So the truth of the matter is that the Government is obfuscating the facts before this country that it cannot speak to performance because it threw away all the tools to perform. That being the case, we are brought here; we are told we must avoid blacklisting. But what are we avoiding blacklisting on? According to the FATF, we are avoiding blacklisting as it relates to implementation, not necessarily the fact that the FIU model was wrong. We are not here, really, when you strip away the smoke and the mirrors, to deal with that. What is happening is an obfuscation of the truth.

We in the People’s National Movement have been on record as saying that this Government has been systematically dismantling national security measures. Today is proof that the FIU, being a measure of national security in itself, has been one of those casualties. Not only was there the denuding of the SIA, the SSA and the border patrol vessels, the OPVs—not only was there that—but we are seeing the cold, naked reality that the FIU has been denuded and that today the game is over, because whilst Trinidad and Tobago may at times be distracted to pay attention to the difficulties that this Government has brought to it, the truth is that international bodies are not so easily distracted, and the fact is that by way of review, and the FATF in particular, and the CFATF in particular, we cannot escape the fact that you must perform.

Now, this Government’s mantra is: serve the people; at times listen to the people—

Sen. Hinds: Bulldoze—

Sen. F. Al-Rawi: Apart from bulldozing the people’s lands, what it has done is that it has fooled the people [*Desk thumping*] and it has done that because it has not brought the efficacy into the model that is appropriate for this jurisdiction.

I wish you to reflect upon the contribution in October 2009 when the administrative-type model being one of four models was recommended as an appropriate model to deal with this issue of Financial Intelligence Units. You would remember that there are four types of Financial Intelligence Units. The first is the administrative unit; the second is the law enforcement unit; the third is the judicial or prosecutorial unit and the fourth is the hybrid type unit. This, in fact, was encapsulated in the IMF recommendations of 2004 when it condescended to describing different models available to the jurisdiction, and in the IMF documentation—and I wish to provide that reference to you—the Financial Intelligence Units Overview; it is a document from the International Monetary Fund dated June 2004, in prescribing the types of models available to societies, a lot of attention was put to the available units that any country could ascribe onto itself the administrative model being a model apposite to Trinidad and Tobago's circumstances, then in 2009, and dare I say still now, it in fact was recommended as an appropriate model, because it hoisted the benefit of being a buffer between financial institutions and the Executive arm.

12.10 p.m.

There was a hue and cry amongst the Opposition as it sat then, and there were seven Members of the Opposition. Madam Vice-President, in fact I am pleased to note that you were one of those persons, the hon. Sen. Vasant Bharath, the Prime Minister of this country, the hon. Tim Gopeesingh, the hon. Chandresh Sharma, they all sat then—the hon. Wade Mark, Speaker of the House.

And they made a lot of criticism about the need for the buffer zone to exist between the Executive and the financial institutions, because we are all about a balancing of rights, and that is the balancing of the right in relation to prohibition on one hand for the larger society of terrorism and illicit gains through crime and proceeds of crime and on the other hand about derogating from persons' rights to property, which is why this Bill deals with an exception to the Constitution provided by section 13 of the Constitution, but it must be reasonable and, in fact, necessary as the Northern Construction case tells us in the CJ's dicta for that to, in fact, be intruded upon lest the law fall casualty to it being proclaimed to being unlawful.

Now the balancing of rights had, the question for us here today is: with the administrative model being the best structure for Trinidad and Tobago, why are we entertaining today the issue of transforming, as the Attorney General says, that administrative model more along the lines of a law enforcement model? The hon. Attorney General has told us we are doing that because he says the FATF has

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recommended that. He also says that given the chance that he would move towards a hybrid model, but I wish to ask him to pause to reflect and rethink upon the move to a hybrid model, or a law enforcement specific type model, because there are inherent dangers in that system, that we as a nation cannot now foster. What I mean by that is the creation of a law enforcement model or a hybrid which moves to more of that type is replete with the danger of how it is to be financed and how it is to be operationalized.

You see that, in fact, is another core point that we must deal with today. The FATF having told us that it wants us to implement the FIU, really we are dealing with, by their reflection, operationalization issues, but how do we operationalize the FIU in the fashion that is prescribed now, when you have accepted that the Government is on record as having thrown out SAUTT which was the financial investigation bureau arm of SAUTT, which in fact was a specific agency ascribed by the People's National Movement to consider whether there were issues running afoul of this legislation? With that thrown away, how do we operationalize this?

You see, we are here adding another layer of legislation into the books of Trinidad and Tobago, but we have not yet been told how it is going to be performed, and that is what the FATF is going to be reviewing us on next year—this year in June 2011. How are we performing? Now performance is anchored to budget, manpower and review. We have not been told where the budget for this new entity which the hon. Attorney General has not even condescended to tell us what it is. This new unnamed entity that is meant to be monitoring the FIU, how is it to be funded? How is it to be financed? Where are the powers of investigation that lie in that body? Madam Vice-President, are we left in our supposed review to guess whether it is in fact the DPP who is doing it?

You see let us not forget that the amendments which were originally brought to the House of Representatives, the ghost of which still sits in this Bill here today, posited that this FIU would have moved from the Ministry of Finance to the Attorney General's office. Now why I say the ghost of it is still there is that it is, in fact, in the Explanatory Notes still there. It is on page 1, clause 6 of this Bill, and it is headed as amended in the House of Representatives but clause 6 in the Explanatory notes says this:

“...Bill would amend section 3 of the Act by establishing the Financial Intelligence Unit as a department of the Office of the Attorney General.”

Now the Attorney General has said, and we noted, that it is no longer going to be moved to the Attorney General's Office, but the ghost is still there, and why I am raising it now, and the point of its validity to context is, how does the unit

function? He has not told us in his 45 minutes near of presentation. We have not been told who is going to perform the function. Who is going to analyze the material which this FIU sends, and engage in action in relation to it? He has not told us, I am sure—I hope that someone is taking notes for him because he is not present—that he will condescend to tell us how it is to be implemented because that is what the FATF requires of us. It is in fact in their statement on Trinidad and Tobago.

Now we are no longer moving to the Attorney General's Chambers, because I am heartened that the Government listening to the fact—I am sorry he is here and I now recognize his presence.

Sen. Ramlogan: I was always here.

Sen. F. Al-Rawi: He having acknowledged that the move to the Attorney General was a concession of the Government, a laudable one I might add, because it was replete with dangers that we would not go into now. I think a lot has been said in the Lower House. The point is, it is now left to us to decipher what the mechanism is going to be to actually perform the work of the FIU.

Madam Vice-President, where do we go from there? What is the statement for the budget for this thing? How does the beast operate to uproot the crime, which we hope that it will deal with? We do not know. There is no plan, or if there is one, it is much like the Government's crime plan. It is unstated, unarticulated, and in fact, resembles their legislative agenda. It is what we call a mystery because it has not been articulated in the public domain.

I noted with great concern on the last occasion in this Senate when the hon. Senators opposite to us stood to say that we must extrapolate a legislative agenda from the budget. That was a statement made in this Senate last Tuesday. We must anticipate the legislative agenda of this Government from its budget. That I will mark down as a single—I cannot even find the adjective for it. That is an atrocity.

Sen. Hinds: Just call it UNC—finish.

Sen. F. Al-Rawi: I would not call it UNC. The point is, Madam Vice-President, we need to have a statement of operationalization.

The issue now perhaps to reflect upon, if one puts aside the issue of the administrative model, and the shift to try to move it to a law enforcement type model, there are cautions in the public domain about that—the IMF has given a lot of attention to that, saying you ought not to give an FIU more responsibility than (a) it can pay for, (b), it can manage, and (c), that it can actually perform [*Desk thumping*] there being a difference between management and performance.

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So those things aside, because they are not addressed at all by the Government respectfully, Madam Vice-President, what else is there to be reflected upon in this Bill? The Bill proposes to deal with a very important issue which the hon. Attorney General rightly spent very little time on because it is an embarrassing issue.

Sen. Hinds: Oh yes!

Sen. F. Al-Rawi: And that is, who functions as the head of the FIU, the director of the FIU, the assistant director of the FIU?

12.20 p.m.

Now, Madam Vice-President, I wish to put on record, that the last time I checked, it is the People's Partnership coalition that is in Government. I am a new person to this Senate, and in fact to the participation in legislation, and I am very uninterested in what the PNM did. The time for constant blame that the PNM did this and the PNM did that is over. [*Desk thumping*] One year has passed; one-fifth of your parliamentary term is gone.

In fact, that was the subject of a lot of commentary over the weekend's newspapers. In the analysis of the People's Partnership performance by several political analysts, one echo amongst them all was, "Get over the PNM". The baton was passed on May 24, 2010 and you all are in charge of it. I am not so much interested to continuously blame the PNM. If blame was there, blame was there. I am here to better that position here today. [*Desk thumping*] So I want this Government to hold on to the task of running the country, as opposed to crying about the blame position.

Madam Vice-President, the director and deputy director of the FIU are feature points. Every action for enforcement, every recommendation to whichever the entity to implement the criminal aspects of this legislation are, starts and stops with the director and deputy director. Now, we have a suggestion by the Government that first of all it accepts that there is no ambiguity in the legislation as originally crafted in section 3, because it is clear the director and deputy director were always meant to be public servants. A public servant is a person who becomes a public servant, not a person who was always a public servant. If there is any difficulty in understanding that, one could have reference to the aid of interpretation that *Hansard* provides, as it has been recommended in the House of Lords decision of *Pepper v Hart*.

Secondly, one could also have advice received from the Public Service Commission as has been received in writing on April 04, 2001, when Mr. Thomas as the Chairman of the Public Service Commission acknowledged that he had received Senior Counsel's advice, that it is the Public Service Commission that is meant to appoint the office of director and deputy director. Now that said, we were told by the Government it is critical to validate the actions of the existing director and deputy director because the positions were not filled before.

The hon. Attorney General recognized that the positions were deputy designate and director designate, which are in fact nowhere in the legislation. I accept this point. The point is, however, that this Bill in the validation clauses, and, that is, sections 19 and 20, seeks to preserve as good and correct all things done in good faith prior to the coming into operation of this Act. But what happens to things going forward from today's date, because that is a very important point that we must ask ourselves. With the Public Service Commission having said that it must appoint the post of director and deputy director—with that on public record in its letter of April 04, 2011, what does that do to the existing position which has been appointed by Cabinet? So, if we have a public statement that the position must be filled by the Public Service Commission, what do we do with all acts going forward? If we take this Bill at its highest, we validated prior positions.

Now, I accept that the hon. Attorney General dealt with the issue of the difficulty surrounding the SRC and the prescription of salaries and, therefore, filling the post itself. But, Madam Vice-President, the difficulty in that position is that we have an anomaly to deal with, and, that is, if someone can knock upon the doors of court and ask the court, this has happened, the post of director and deputy director not having been properly filled, the act, one may argue, or the sanction carried out by the FIU they may argue, is in fact an unlawful act because it was under the hand of someone not properly appointed. So how do we deal with that?

Perhaps we should reflect, and when we get to committee stage—that maybe what should come before this Senate, accepting that there is a difficulty in filling the post of director and deputy director with the assistance of the SRC and the assistance of the PSC as it should properly fill those posts—accepting those difficulties, should we not be contemplating another form of prescription?

Perhaps one may wish to put an interim director in law, someone appointed even if the FIU wishes it to be done at the hands of the Cabinet. You call a spade a spade. Should we not be seeking to fill a post which is an interim position until

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the FIU has had an opportunity to receive the SRC's recommendations through the PSC and, therefore, to fill the post lawfully? So, that is a position that we may wish to look at in the committee stage, but, dare I say that I think we have a loophole in validating only the past position and not the future position with an unlawfully filled position prevailing as it is right now.

Madam Vice-President, that issue of head, an organizational structure said we must now look to the powers and functions of the FIU. We are being prescribed a remedy today, which is to say, let us take institutions of three types and let us regulate them in two ways. The three types of institutions we are taking are: financial institutions, non-regulated financial institutions and listed businesses.

Financial institutions are the traditional measures of banks and insurance companies. They are currently regulated by the Central Bank. Secondly, non-regulated financial institutions have been introduced as a concept in the definition section of the Bill to include: a society registered under the Co-operative Societies Act; a person who carries on postal services and a building society registered under the Building Societies Act; non-regulated financial institutions; and the third class of listed businesses is in fact prescribed by the Schedule to the Proceeds of Crime Act, and, most notably includes a host of businesses from the private sector and also includes attorneys-at-law and other persons of professional capacity.

So those are the three classes. The two systems of regulation being prescribed are meant, I would imagine, to be concurrent systems, and that is that the financial institutions are regulated and continue to be regulated by the Central Bank and the Supervisor of Insurance in that Central Bank and, secondly, that we now form a supervisory authority in FIU to regulate listed businesses and also non-regulated financial institutions.

The problem with that classification—this really being a measure which deserves a lot of attention—is to be seen littered throughout the Bill. Because what we have throughout the Bill are two streams, the hot and the cold, which never seem to mix or mix badly at times, Madam Vice-President, either too hot or too cold. If you were to reflect upon the amendments being suggested in this Bill, you will see that there are many occasions in the Bill where we have omitted, for some reason that is unexplained, the presence of non-regulated financial institutions or in fact financial institutions as are properly regulated.

Madam Vice-President, a reflection on the Bill will show us that if you were to take a read of the Act as I have marked it up—and permit me if I may—sections 11, 13, 14(1), 14(2), 21(1), 21(2) and 21(3) of the FIU Act, 2009 cleave for no valid

reason—either financial institutions or non-regulated financial institutions, and it shows the disjointed manner in which the Government pretended to deal with a review of this legislation. You see, if you look by way of example into what I am saying at section 11 of the FIU Act 2009, it says:

“Where, after the analysis of a suspicious transaction or suspicious activity report from a financial institution or listed business in accordance with section 8(3)(b), the Director is of the view that further information may disclose a specified offence...he may...”—do certain things.

Now, why leave out non-regulated financial institution there? It makes no sense. You are meant to be regulating all three, but in section 11—the chapeau—you are in fact regulating two, not the third.

Section 14(1):

“The FIU may, where the circumstances set out in Regulations prescribed under section 27 exist, instruct a financial institution or listed business in writing,...”

No mention of the non-regulated financial institution. Part II of that clause—

Madam Vice-President: Hon. Senators, the speaking time of the hon. Senator has expired.

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

Question put and agreed to.

Sen. F. Al-Rawi: Thank you, Madam Vice-President. I confess that those 45 minutes, for me, evaporated.

Madam Vice-President, I was saying section 14(2), again, there is mention only of financial institution and listed business, absolutely no mention of a non-regulated financial institution. Similarly, the other clauses that I mentioned run afoul of the same difficulty. This cannot be reflection of a proper review of the kind that the Attorney General tells us was conducted by his Ministry’s part. In fact, dare I say that it is evidence of poor attention to legislative drafting. How are we to accept that the Government sat in the period of November last year—as he said in the Lower House—to today’s date and conducted material for review, research and planning, when you see littered throughout this Bill poor drafting?

Because my time is short, I will take all of the points that I have relative to that and deal with them in committee stage, as to where it is the legislation is

poorly crafted and connected. I am leaving that alone for now because I wish to make a few more observations.

Madam Vice-President, under the Schedule of the Proceeds of Crime Act, as I said, attorneys are included into the category of listed businesses, and we are prescribing by way of a modification of section 12 of this Act, the Financial Institutions Act 2009 as suggested by clause 11 of the Bill, that we are to enlarge the powers of the FIU itself. We are going to allow it in sections 12 and 18, the ability to go into attorneys' offices and business places to seize documents, interview people, take away materials, and we allow it in two fashions under this Bill as proposed.

In the first fashion, which is the responsible one, we say that if consent is denied you can actually do it by approaching the High Court, and that one may argue is a codification of the common law that exists in relation to the prescription of Anton Pillar orders.

12.35 p.m.

The second way that we allow the intrusion into the financial arenas of attorneys and other persons amongst listed businesses is by way of a warrant, Madam Vice-President, and that is where the police can enter your premises on a bare warrant. Now, if one had conducted a proper review of the type that we are supposed to be dealing with today, we would have paid attention to the experience in the United Kingdom and elsewhere, when a great deal has been said about the need for consultation in the private sector. And dare I say, in the specific instance of an attorney in the legal fraternity, and the titular head of the Bar being the Attorney General, he has access to the law association as well, but we have not had that, Madam Vice-President.

So, by facilitating a High Court remedy of a type similar to the Anton Pillar orders, Madam Vice-President, and of a type of a very low threshold of reasonable suspicion on a warrant, we have not even factored the consequence of legal professional privilege. Now, Madam Vice-President, that is a very sincere obligation to consider because whilst this Government has been hot and sweaty to validate the actions of the director and deputy director, and the director being an unlawful position as it is currently held, an unlawfully appointed position, it has not even cast its eye—and dare I say, shameful for the titular head of the Bar not to do so as it relates to the difficulty that attorneys will have in breaching LPP as we call it, legal professional privilege.

Madam Vice-President, should we not—instead of validating only the position of the unlawfully appointed director—also be providing a legitimate route for compliance by attorneys-at-law and other persons with professional privilege to

comply with the provisions of the Act lest we are met with objections that can frustrate the very process that we are seeking to regulate? Because an attorney can quite properly stand up and say, “I cannot comply with a warrant for disclosure, I cannot comply with a High Court order, and I must address those concerns to a judge because of the concept of legal professional privilege”, but that is nowhere in this glorious review that the Government has brought for us saying that this is the type of responsible management that it has undertaken.

Madam Vice-President, it is incumbent upon us to ensure compliance, and compliance can only be measured if we were to facilitate proper compliance by professionals who must obey this code. I am deeply concerned as a legal professional myself that I am going to fall—and all attorneys will fall—into difficulty in seeking to comply with this Act because failure to comply with an order is an offence. And before the Attorney General had the wisdom to remove the *ex parte* process by which the FIU could have approached the court to seek to get a seizure inspection of the Anton Pillar type, before he had removed that, we could very well have been met with the circumstance of an *ex parte* order which was not obeyed, and one could then be in breach until it is you had the opportunity to attend either *ex parte* opposed or on an *inter partes* occasion in court.

Madam Vice-President, the new section 18 of the Act as it is proposed to be amended, is one that deserves a great deal of attention. Madam Vice-President, it is my view that the implementation of the FIU in the proper sense, sought to be analyzed by the FATF, could have been implemented if we were to have kept the measures that were already in place. We could have preserved the SAUTT’s Financial Investigation Bureau. But in dismantling that institution, into which billions of taxpayers’ dollars flowed, we have thrown away the reward purchased by taxpayers’ money, and we are now seeking to recreate in a poor fashion that which existed already.

So, this Government has to stand up and explain to us why it has thrown away billions of taxpayers’ dollars in cancelling an institution which they are seeking to recreate now. But they are seeking to recreate it—in the auspices—I would imagine, because it has not been said yet, and I am left to wonder—through the Trinidad and Tobago Police Service. We have been told that no more than a few officers who were employed by SAUTT will in fact be absorbed into the TTPS.

So we are now seeking, after having thrown away the reward which we purchased as taxpayers to create a nebulous institution—one which has not been defined by the Government; one which has not been given any prescription for

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budget; one which has not been given any prescription for manpower; one which has not been given any prescription for on efficacy performance targets—we are seeking to recreate something that existed already; after you switched off monitoring devices, after you switched off investigative arms and training centres? [*Desk thumping*]

Madam Vice-President, this is what people would refer to as shenanigans. We are playing games with the reward purchased by taxpayers, and it is incumbent upon this Government to tell us the particulars of implementation, lest we find ourselves on a blacklist of the type which Colm Imbert, the hon. Member of the Lower House, warned this Government in January of this year of when he said that we could not trade on certain stock exchanges through institutions because we had failed—Trinidad and Tobago had failed—through this Government to get its act together. I read the speech of the hon. Attorney General in the Lower House and he was right. He needs to get his act together, respectfully.

The Government needs to get its act together. Enough partying, Madam Vice-President. [*Desk thumping*] We do not need to have a jet fly to Brazil costing the taxpayers of Trinidad and Tobago money, where we have to wet lease another aircraft at expense to our people, when these Members of our Government should be here performing the work that we entrusted them. We deserve respect, we will be vigilant on this side in holding them to task, and we cannot perform realistic tasks if we do not give the opportunity for efficacy to be born through hard policies articulated by the Government.

The articulation must include its legislative agenda so that we do not waste time, when in February we could have dealt with this legislation. It must also include a statement of the policies for implementation. It must state with particulars the budgetary allocations, the manpower resources, and it must tell us how we are meant to cure the unlawful appointment of a deputy director and a director as now sits in the offices under the FIU.

I thank you for allowing me this contribution, and I hope that the answers will be provided in the wind-up by the Attorney General. [*Desk thumping*]

Madam Vice-President: I propose we take the lunch break and return at 1.45 p.m.

12.45 p.m.: *Sitting suspended.*

1.45 p.m.: *Sitting resumed.*

Madam Vice-President: When we left off, Sen. Al-Rawi, you had just completed your contribution and we do have our next speaker, Sen. Dr. Balgobin.

Sen. Dr. Rolph Balgobin: Thank you, Madam Vice-President, for the opportunity to speak on the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) (No. 2) Bill, 2011. I have some general and specific points to note and I have to say I was greatly assisted, and I am grateful for the provision of the regulations for this particular piece of legislation, because it has rounded out my perspective on certain aspects of the legislation about which I was insufficiently clear.

Madam Vice-President, I will just make my few specific points first, and in that regard I would like to invite your attention to clause 5 which is on page 2, which amends section 2 of the Act, defines “law enforcement authority” as including a number of portfolios here which come after the police service of Trinidad and Tobago, the commissioner in the parent legislation. I noted that in the corresponding regulation, which is regulation 18, it leaves the Chief Immigration Officer out and I am not sure that was intentional. The section, of course, speaks to law enforcement authorities and the regulations to local authorities, and so perhaps the exclusion of the Chief Immigration Officer is warranted although in my reading of the regulations and legislation I was not clear why that would be so. So I draw that to the attention of the Government. Perhaps it is something that might be corrected or explained.

The second point, Madam Vice-President, speaks to clause 11 of the Bill before us which maps to clause 12(1) of what will be the amended legislation. And clause 12(1) as proposed reads:

“Where a financial institution or listed business fails or refuses to provide any information...”

It goes down, however, in 12(2) to say:

“Before an application to the Court is made under subsection (4), the FIU shall give notice in writing to the non-regulated financial institution or listed business of its intention to do so”

I am not sure, since (2) follows naturally from (1) and, in fact, is a consequence of (1), whether that was intentional or not. It seems to me that 12(1) intended to say:

“Where a non-regulated financial institution, or listed business fails or refuses to provide information...”

And so, perhaps that is something that again could be clarified or explained.

In clause 12 which amends section 14 which is on page 6 of the Bill before us, I was not clear why—I suppose this is a counter-intuitive point for most people who are not involved directly with business—the extension of time from three days of five—and that time being the time that the FIU can suspend a

transaction—would seem a reasonably innocuous change. But business now travels at the speed of, if not light, close to it, and a delay of five days for a transaction that is, for want of a better phrase, “mission critical” can damage a business’ interest. And so I wondered whether there was some empirical basis for the change from three days to five days; a cheque clears in less time, and I was curious as to why are we adding this extra bit of time for the suspension of what we consider to be a suspicious transaction.

And that, Madam Vice-President, then begs the obvious follow-on question, what is a suspicious transaction? In reading the parent Act, there is no definition although the legislation relies heavily on our general understanding of what a suspicious transaction is. In reading the Bill before us, there is no definition and in reading the regulations I could not find anything that approximated to an appropriate definition of what a suspicious transaction is. And that may be deliberate because suspicious transactions are probably, or in most instances, by their nature context specific. You have a small business that is doing \$2,000 a month and you deposit a cheque for \$10 million, well yes, that would give cause for concern.

But I wondered whether there is not an opportunity for us to look at how other jurisdictions deal with this particular point and to examine and come to a broad understanding of what are the parameters of suspicion. I was tempted to say “suspiciousness” and use a Trinidadian kind of term there. But how do we define or ring-fence when something is suspicious? There must be some sort of logic to this, otherwise I think that—and why I say that, Madam Vice-President, is I have seen agencies that are so keen to avoid running afoul of the law and by agencies I mean, say, banks, financial institutions, non-regulated financial institutions and so on, because the penalties are harsh if you do not comply. And so you could actually trigger a barrage of reporting and complaints which I do not think this legislation really intends, and so perhaps a more rigorous understanding of what a suspicious transaction is would be useful and certainly a good place to begin is with a definition.

In terms, Madam Vice-President, of clause 18, I confess to having had some difficulty, clause 18B in particular, I found somewhat confusing and I should say B and C, because 18B says:

“All listed businesses and non-regulated financial institutions shall register with the FIU, in accordance with the prescribed procedure.”

And 18C says:

“The FIU shall establish and maintain a register of all listed businesses for which it is the Supervisory Authority.”

Okay, that is fine. So we turn then to the regulations and what do the regulations say?

1.55 p.m.

We turn now to the regulations. The regulations prescribe a form which is set out in a schedule and they say you must do this within three months. You must register with the FIU as soon as you become a supervised entity; that is assuming you will know that you are a supervised entity. I think this is an important point. A lawyer, just graduated, or just establishing a practice of his own, becomes a supervised entity in his or her own right and ought to know he is crossing a threshold when he hangs his name on a door.

When I look at the regulations, Madam Vice-President, I confess that I was at a loss to understand why we have to impose this additional overhead on business. This form says: “What is your name? What is your name of company? What is your company registration number? What is your address? What is your VAT number where applicable? What is your phone number? What is your nationality? What is your driver’s permit number and authorized signature?”

Why does a business have to be burdened with filling out yet another form? This information is available from the Registrar of Companies. This information is available from the Board of Inland Revenue, and we must surely know that companies are required to fill out annual returns.

I am, however, clear on the point that this may not be something that can be struck out altogether because the definition of a listed business is broader than would be captured, say, in the register of companies. It is certainly not broader than would be captured by Inland Revenue. Inland Revenue, however, may not have all of this information. So, it may apply to some companies; certainly not to those incorporated under the Companies Act; certainly not to those that have to file annual returns with the Registrar of Companies.

So, I felt that there might have been scope to relax regulations 28 and 29, which basically say that when you become a supervised entity you must register with the FIU and, if you change your address, you must notify the FIU within six months otherwise they will fine you. *[Interruption]* Presumably first they will F-I-N-D you, then they will F-I-N-E you.

You do have to fill out, I think, a form called a notification of change of registered address with the Registrar of Companies. Some of these things might reasonably happen outside the view of the public. We should not place the overhead on the public to treat with these things. What I am getting at is what I think the Government is assiduously trying to get us to—a single point of contact for business with the State. I think that regulations 28 and 29 might be relaxed in thinking about section 18B and C.

I want to make a quick point where that is concerned, and that is to make clear to the national community—I do not mean this in a pejorative sense at all, but if one were to do a value chain analysis of what happens in Trinidad and Tobago for business and so on, reporting to the FIU does not add value. The resource it takes does not add value.

So we want our people focused on productive endeavours. If we have to do this as part of meeting the needs of the regulatory framework, we must. To the extent that the FIU helps us to build a safer, cleaner, healthier, more transparent, well governed Trinidad and Tobago, it does add value. It adds value on a societal scale, but we ought not to make the provisions of the operations of the FIU such that they impede business in any way or business feels in any way jostled by the provisions of the legislation and its regulations.

Section 18D and E, I was not sure whether in the proposed section 18E(1), items (a), (b), (c), (d), (e) and (f) were appropriately linked to 18D because 18D says:

“Where in the course of carrying out any of its functions as a Supervisory Authority, the FIU acquires knowledge or has reasonable grounds to suspect that a person is engaging or has engaged in...”

And then it lists two very specific transgressions—money laundering or the financing of terrorism. I was not clear on whether we wanted to restrict our consideration just to those two things, given that 18E says that the FIU shall effectively monitor non-regulated FIs and listed businesses for which it is the supervisory authority for all of these pieces of legislation under it, which would cover, I think, some criminal acts that are outside of simply money laundering or financing of terrorism. I stand to be corrected. It is something I would draw to the attention of my friends and ask them to think about. Perhaps it is something that they have already seen.

The last specific point I have relates to something that I have always been quite uncomfortable with, and that is the validation clauses in the schedule on pages 12 and 13. The question I would typically ask is: has anything been done? Has any

breach occurred outside of the typical legal cloak we are about to provide with the amended legislation that we ought to be aware of? I ask this question simply because, as happens with validations, we are asked to validate the operations of something we know very little about.

We have no explicit report before us, so there is no way of knowing, when we take this validation step, that we are validating things we would want to validate as opposed to validating things we would feel a little more squeamish about. This is something that gives me pause, so I ask that question of the Government. Are we satisfied that this is to our liking? Are we comfortable? Are we aware of any breach that would have occurred that we are validating; that we would probably not want to validate?

Last specific point on this validation would be that this only carries us to the present day and since we do not have a director in place, it means that, going forward, we will have to get one as quickly as possible. There is also the issue of how quickly this can be proclaimed; so proclamation becomes an issue if we are going to get this active so that the FIU can do its very necessary work.

Madam Vice-President, I draw your attention to—it seems a very thick book, but an entertaining read. It is done by a man named Lee Kuan Yew. The name of the book is *From Third World to First: The Singapore Story: 1965—2000*.

In reading the book, one is struck by the long view this man took. Typical criticism of Singaporean comparisons would be: “Ah, well we cannot do that here; they have a more dictatorial government and their society is more tolerant of that kind of benevolent or sometimes not so benevolent dictatorship and so on”. I accept that. But, what is interesting about the approach of Singapore is that Singapore saw itself as a financial centre in 1968 and it took about 22 years for that vision to actualize. It tells me the absolute importance to a country of batting off the front foot. In cricket, unless you are a supreme batsman, they say you do not want the ball rising up to get you. Once you are on your back foot, you are in danger unless you are “vapping”.

Trinidad and Tobago needs to seize the opportunity to bat off the front foot. I always feel sad when I see legislation that comes to us when we are in danger of being blacklisted or we have just been blacklisted. That has happened here for many years. That is by no means an issue for this Government. It has happened in this country for many years.

I think it very unfortunate that we have adopted a kind of reactionary logic that says: well, everything has to happen first and then we will deal with it. There

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is scope for us to be proactive because we have seen, in the case of other small states, where a proactive stance, even on legislation, can carry us a very long way.

That having been said, perhaps on this and some of the other things we are considering today, we are a little on the back foot; but do we need this legislation? Do we need these amendments? Do we need these changes? Should we support them? I think the answer is yes. I would not hesitate to say yes. I think it is an unqualified yes. This country, this society needs this and one of the unfortunate things about what has happened in the national conversation is that I do not think the common man understands how important this legislation is to the average citizen. I think that some of us still live in a paradise of the mind where we do not think of things like terrorism.

Madam Vice-President, terrorists pass through here—they do—and terrorist funding networks are global. It is not that the money has not passed through Trinidad and Tobago before and is not here now. That is not true. We need agencies like the FIU to get in, monitor and catch some of these flows and try to strangle or slow down the flow of this money.

I think terrorism is very real, especially for small countries. You go across now, they have worked it out. You go across to Tobago and you look at what is happening there—beautiful island, but it occurs to you when you are waiting for the boat or for an aircraft that it is quite easy to bring something into Tobago; just put it on the ferry and bring it across to Trinidad. Guess what? That happens. That is no secret anymore.

We have to be very mindful—and we will deal with that when we talk about human trafficking. It is not just things; it is people.

2.10 p.m.

So terrorist funding, I think, is something that we have to be mindful of, but I think that the hon. Attorney General also made a very, very important point that the country has not responded to yet. You are seeing in a period of economic stagnation, if not recession, a type of new business formation that should give us pause. Where are these people getting this money from? Restaurants, groceries and you go and stand in there and you think, well this did not cost less than three, four or five million dollars. Where are they getting the money? If you had to leave where you were living because of economic hardship, and travel halfway around the world and come here as an economic migrant, how is it that you have all this money?

Studies of immigration show that it takes at least a generation, or two, before a family unit could scrape together enough money to launch themselves into a business of the size and scale that we are observing in Trinidad and Tobago now. What do we see now with that? We see kidnapping, we see murder. There are international dimensions to these things.

I think the Attorney General has said something there that is very important for us to think about. The FIU comes now and faces these things directly and squarely. That is why it is so important for us to get this thing moving, get it going, so that we as a country, can get on the front foot with some of this stuff, and treat with it in as fair and objective a way as possible. Clearly many of these new businesses have no clear source of funding and, even more importantly, they do not have a sustainable business model.

So you have opened a business that nobody has thought about there before and as someone who might know a little bit about business I stand there and wonder how they are going to make money here. "Place always empty but it is not closing down. It is a restaurant, nobody in de eating, but they have 50 tables and 500 chairs". Next thing somewhere around, there is a casino or a hotel and so you look at these people and wonder, where is this money coming from? And the FIU will now have to help us to understand where it is coming from. So as a society we need that.

Madam Vice-President, you know Steve Jobs the Chief Executive and Chairman of Apple Computers the people who make all these nice iPads and iPhones, and so on, once said, "if you look behind any overnight success you would usually see a lot of years". But not, I think, these overnight successes that we are looking at. I do not even see a lot of months. Many of them do not even have age, they cannot speak the language and they have not even mastered the basics of the society that they are operating in and you have a million dollar business! *[Interruption]*

Sen. Ramlogan: "They have firearm licence".

Sen. Dr. R. Balgobin: They are getting what?

Sen. Baptiste-Cornelis: "They have gun licence".

Sen. Dr. R. Balgobin: Well look at that. What is going on here? The FIU needs to help law enforcement to target and identify these people and let us lock them up. I tell you nothing will change a man's mind faster than when he is passing by and he sees one of his cohort's businesses shut down and locked up

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and a big chain is put on it and “Where are you? Well you are in jail? Why are you in jail? Because you are a criminal and the FIU has found you out”. This is what we need to do, so I fully support that. I think it sends a very wrong message to the young people in the society who are studying hard, working hard and working two jobs to try to make ends meet and you just arrive here as part of a criminal network and are living large.

I went into a supermarket that meets the description of a business that I am talking about. I went there out of desperation because everywhere else was closed. Of course, long ago if you went to, for example, a “chinee” shop—the “Chinaman” as we call them, running the shop would have been an elderly person—you would address them with respect and deference. Now you have teenagers and “twenty somethings” running these businesses. I saw something quite odd while I was in there looking for ice cream. I saw a national of Trinidad and Tobago, somebody I know to be a national from the area, walk in and the person running the business looked at that person and said; “I told you I am not serving you! Get out! Get out! Come out from here”, in broken English.

Madam Vice-President, could I do that in their country? Could I go into the United States or somewhere else and set up a business and watch somebody come inside and say, “you get out from here”? The person who wanted to be served I do not know them to be a criminal. He is decent, middle-aged man. I thought how funny. What business, what company turns away a customer? What company does that? I wonder. Perhaps these are questions the FIU can help us to answer, Madam Vice-President.

I have just two more points. The first is that I found the regulations were quite useful and I am of the firm view that regulations like these should be subject to affirmative and not negative resolutions. If the Parliament is going to be responsible for legislation—and regulations really bridge the gap between what we do here and what happens with the ordinary citizen—then I think Parliament has a right to look at and consider regulations either in conjunction with the legislation or immediately thereafter. An old tactic may have been in the past to have legislation passed but not proclaimed for want of the regulations, and that is a way to stymie legislation.

And those things ought not to be permitted, Madam Vice-President. We are in a modern democracy, a modern society and I think that these things—because they have, by default, parliamentary approval—ought to be seen by the Parliament and not pass through the Parliament like a ship in the night as these negative resolutions tend to be.

Madam Vice-President, I do have a concern about the date for review. I think that dates for review should be fixed and firm. I do not think it is fair to ask parliamentarians, Members on the Government side or anybody, to sort of put in their dairy when a piece of legislation should come up for review, if we pass it and require that it should be reviewed, simply because there is often a delay before proclamation.

We need to find a way, I think, for the Parliament to notify the Executive and parliamentarians, generally, of the Bills that will come up for review and the dates by which they should be reviewed because we are seeing more and more of that kind of legislation coming through both parliamentary Houses. I think it is very useful discipline for us to acquire.

Finally, Madam Vice-President, because the implications are so wide, I would just like to close by asking for a couple of things. One would be the way that Bills are presented, a track changed document would be immensely helpful rather than having to go to various pieces of legislation. I think if we could get to a place where we can view the changes in the context of the legislation that we are changing, I think it would be very useful and so I do not know to what extent we could get assistance with that.

2.20 p.m.

Madam Vice-President, more importantly I think it is critical for us to explain to the public what is meant by Bills like the one before us. The implications are wide. Does a business that falls under the very big “house and land umbrella” of a definition of “listed businesses” know that it is a listed business? Does the common man understand now that his transactions can be held up for three or five days if the business is suspicious? How do they avoid this cloak of suspicion? Perhaps they could avoid that delay just by explaining to their bank manager what the deposits are about or what is happening here, or something like that; I do not know.

I think there is a real opportunity to explain to the public what is meant by legislation like this, what it means for the ordinary man, so that the ordinary man can be better informed about the laws that we are making in this country.

Madam Vice-President, I thank you for the opportunity to speak.

The Minister of National Security (Sen. The Hon. Brig. John Sandy): Madam Vice-President, I rise today to make a contribution on the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) (No. 2) Bill, 2011, which is before this honourable Chamber.

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As you are aware, the Financial Action Task Force (FATF) is the internationally recognized body that develops national and international policies and standards to combat money laundering and terrorist financing. Trinidad and Tobago, though not a member of FATF, is nevertheless required to implement the FATF recommendations through its membership in the Caribbean Financial Action Task Force (CFATF).

Madam Vice-President, I want to embrace this opportunity as well to commend the hon. Attorney General for bringing this Bill to this honourable Senate, at this time, when we need to become FATF compliant as it is a serious indictment on Trinidad and Tobago.

In my capacity as prime contact to the CFATF, my responsibility is to ensure that Trinidad and Tobago is compliant with the FATF 40+9 Recommendations on money laundering and the financing of terrorism. This is a responsibility I take very seriously.

Before I go into my brief contribution, I would like to respond to some of the remarks made by my colleague, Sen. Faris Al-Rawi. We continue to experience in this honourable Senate—and I tend to go back to the military, and I make no excuses for that—what we refer to in the military as the operational manoeuvre followed by the tactical assault. In this instance, my colleague has put it the other way around. He has brought the tactical assault first and then the operational manoeuvre.

To explain further, what happens here—and this is something that irks me. I prefer to deal with the issues, but it happens all the time. My dear friend is someone who I have the greatest respect for, and he knows that. What happens in the tactical assault is that they blame the present Government for everything that is happening. [*Desk thumping*] “You are responsible for this and that,” and then they come with the operational manoeuvre and say, “Do not go back there.” After they have done it, they say, “Do not go back there.” But I would be failing in my duty, on this occasion, if I do not go back there. [*Desk thumping*]

The facts are that over five years ago this issue came into being with FTAF and CFATF and, obviously, it was not taken seriously by our predecessors. The CFATF came to Trinidad and Tobago. On September 03 a high-level mission came to Trinidad and Tobago, and I quote:

To apprise the country on the urgent status of rectifying Trinidad and Tobago’s anti-money laundering and combatting the financing of terrorism. AML/CFT regime.

But during that visit, when they made efforts to meet with our Prime Minister at the time, he refused to meet with them. My experience has been, from the short period I have attended these meetings, that they see Trinidad and Tobago as arrogant, that we do not care about that; it is a small matter, so there is no need for us to be compliant.

In 2007 Trinidad and Tobago was non-compliant with 15 of the 16 key and core recommendations of the FATF—15 of 16—and partially compliant or non-compliant with 26 other recommendations. Among the reasons for non-compliance regionally was the failure of our predecessors to develop architecture to establish financial intelligence units. So this is what we inherited.

I will not allow the national community to go away with the feeling that we have been here 11 months and we have done nothing, so we are at fault. I hasten to add that we in the Parliament are in this thing together. It is not a matter whether we are there or they are here; we are in this together.

Sen. Hinds: Come and take a seat. [*Laughter*]

Sen. The Hon. Brig. J. Sandy: No, I always like to be a winner.

We ought not to get that into the mix. We are attempting to uplift Trinidad and Tobago. We are saying as well that within the Caricom region, within the Caribbean community, apart from Antigua and Barbuda, Trinidad and Tobago is the only country that finds itself in this situation. What have they done that we did not do? I am talking about over the five-year period. Please, please do not come here and purport that we have done nothing in 11 months and that is why we are this way. We met that situation and that is why we are in the predicament that we are in today. [*Desk thumping*]

My dear friend is quite right, FATF cannot be fooled. Because of my exposure to some of those meetings which, I might add, my predecessor never attended, they feel that Trinidad and Tobago is, “Okay, you are arrogant and you can behave as you want,” this is one of the reasons we are under the pressure we are. It is our goal to change that and to lift the—[*Interruption*]

Sen. Hinds: Would the Minister give way? If only to correct the record—I am not in a position to speak for anyone else, particularly during the period I was out of the government, but I can say for certain, I can say as a fact, that I was detailed to and attended one of those meetings in the island of Jamaica, just before I demitted office somewhere in 2006.

Sen. Panday: One out of how many?

Sen. Hinds: I do not know. I cannot speak for anybody, but I know it is not correct to say that the government of Trinidad and Tobago did not attend. [*Crosstalk*]

Hon. Senator: You were a junior minister.

Sen. Hinds: It does not matter.

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, with the greatest respect, I never said that a minister did not attend. I said my predecessor never attended. [*Desk thumping*]

Sen. Panday: Aaah; take that! [*Desk thumping*] [*Crosstalk*]

Sen. Hinds: I said that I cannot speak for your predecessor.

Hon. Senator: So why did you get up? [*Crosstalk*]

Sen. Hinds: No, no; you gave the impression—I was of the impression that you were saying the members of the PNM Government did not attend.

Hon. Senators: “Sit down!”

Sen. Panday: Deliberate wrong impression!

Sen. The Hon. Brig. J. Sandy: Madam Vice-President, again with the greatest respect, he was never my predecessor. [*Laughter*] When we speak about dropping the ball, we did not drop the ball. The ball was dropped before we got into office.

Sen. Hinds: No one ever did that before. [*Sen. Hinds displays front page of newspaper*]

Sen. The Hon. Brig. J. Sandy: We met the ball on the floor. The ball was already dropped. We are trying now to retrieve the ball and that is where we are. [*Interruption*]

Sen. Hinds: The farmers want to know why you destroyed their crops. Those are the issues!

Sen. The Hon. Brig. J. Sandy: Subsequent to the committee stage in the other place, the Opposition Members met with Members of the Government and came up with this. I am advised that all the suggestions they made were accepted, so it is difficult to understand why we are in this situation. Be that as it may, we need to pursue with the expectation that our dear friends on the other side will support.

I was indeed disheartened, upon assumption of this office, to find out where we were with respect to our AML/CFT compliance, but over the period we have made strides and we are in the process of attempting to conform and to be compliant with all the 40+9 recommendations.

When I attended the first meeting, then I understood the extent to which Trinidad and Tobago had fallen behind, and subsequent to that, efforts were made. So serious was this Government that there is a Cabinet-appointed committee to deal with these issues. There is also an interministerial committee, and they are working feverishly with the view of getting us to a situation where we can once more feel proud of Trinidad and Tobago.

In that regard, hon. Senators may recall that this Government came to this very Parliament with an amendment to the FIU Act, which was necessary to allow the FIU to exercise its supervisory power over listed businesses. Shortly thereafter, the FIU regulations were laid in this Parliament and these regulations instituted mechanisms to ensure that the FIU could effectively fulfil its mandate under the FIU Act and, in particular, gave the FIU legislation teeth to regulate listed businesses as identified in the Proceeds of Crime Act.

I commend Sen. Dr. Balgobin on his observation. I was pleased to hear him indicate that we have been in this situation over the years. That is why I am making the point that it has nothing to do with you there and we here. It has to do with Trinidad and Tobago. [*Desk thumping*]

Madam Vice-President, you would also recall that as recent as Friday, April 08, I piloted a Bill to criminalize the trafficking in persons. This Bill when enacted will bring Trinidad and Tobago closer to our eventual goal of criminalizing all predicate offences to money laundering, as required by FATF Recommendation 1. Here we are talking as well of the drug trade and the arms trade, because we know what happens with respect to that money and how people seek apparently legitimate means to launder that money.

We also know, as was indicated earlier by two speakers prior to me, that there are some businesses which evolve virtually overnight. They spoke about the jewellery business and real estate, and there is another area as well: the fish industry. You find that some mere fishermen overnight they seem to have some big catches that would cause them to evolve in the hierarchy of economics. [*Interruption*]

Sen. Hinds: Fishermen? What about the farmers?

Sen. The Hon. Brig. J. Sandy: We will deal with that when we come to it.

Sen. George: He is looking for the media to carry it. [*Laughter*]

2.35 p.m.

Madam Vice-President, the hon. Attorney General has comprehensively addressed the relationship between the central criterion or Recommendation 26 of the FATF, and the provision of this Bill, therefore, I need not go into details of that.

But in my brief contribution today, Madam Vice-President, I wish to reiterate certain aspects that address the remaining legislative deficiencies that prevent Trinidad and Tobago from achieving compliance with international standards.

There are some of these enterprises, as we say, that fall under the radar. What we are attempting to do is to entrap them in the radar so that in easier terms, they can indicate to us where their finances have come from, and once they cannot do that, well then something is wrong. And accordingly to comply—if we look at Recommendation 24, that requires that jurisdictions implement systems for monitoring and ensuring that all comply with these requirements to combat money laundering and terrorist financing, however, FATF allows jurisdictions the flexibility to determine the supervisory functions over certain classes of these businesses.

Additionally, Recommendation 25 requires jurisdictions to ensure that competent authorities issue guidelines and provide feedback to all these businesses that we referred to earlier on as designated non-financial business and professionals (DNFBPs).

In this regard, Madam Vice-President, to comply with these recommendations clause 18(E)(1) of the Bill empowers the FIU to effectively monitor non-regulated financial institutions and listed businesses for which it is the supervisory authority and shall take the necessary measures to secure compliance with this Act and other AML/CFT legislation.

Madam Vice-President, we are serious and determined to elevate ourselves out of this grey area that we have found ourselves in. This is the reason we are pursuing this legislation in this honourable Senate, this is the reason our compliance unit is working feverishly with other agencies and other departments from the Attorney General's office and the Ministry of Finance to ensure that at the end of the day we are fully compliant, not partially compliant. It will take some work to get ourselves out of this, but I assure you, once we have elevated ourselves we will remain elevated and will not allow ourselves to degenerate further into the abyss in which we found ourselves when we took over.

This arrangement will allow financial institutions and listed businesses in Trinidad and Tobago to become compliant with internationally accepted standards and will promote the adoption of policies and procedures that are designed to control and manage money laundering and terrorist financing activities.

Now, Madam Vice-President, we know for a fact that we do not have any empirical evidence to indicate or to suggest any preponderance of terrorist activity in Trinidad and Tobago. However, having regard to the fact that we are now a global village, having regard to the fact that we read every day about the terrorist activity very close to us, having regard to the fact that because of transnational criminal activity—and as indicated by someone earlier—we can be that avenue through which terrorism transcends, through which terrorism evolves, and would probably lend itself up the chain of islands.

We have to be particularly careful with respect to how we deal with terrorism and terrorist activity. I will try to ask my dear friend to recall—many years ago, it might have been the late 1980s—the visit of Pope Paul to Trinidad. At the time I was operations officer responsible for supporting the police in the security operations for the Pope. And I cannot remember in what capacity, but I was at the airport and Sen. Hinds was standing with me—I do not know if you remember that—

Sen. Hinds: Yes, I remember.

Sen. The Hon. Brig. J. Sandy: And he said—I am standing there—and I am watching the aircraft leaving,—to me, “All yuh happy now?”, and I said, “Yes, I am happy now”. Once he cleared our airspace I was happy. Because you see, Trinidad and Tobago could be considered an area of soft target, in that, the Pope comes here, “So okay, we cannot get him in Rome, but we can get him here, and people would travel”. I do not know if you remember.

Sen. Hinds: I remember quite well.

Sen. The Hon. Brig. J. Sandy: He said to me, “You are happy? I said, Yes, I am happy once he clears our airspace”.

So, once we are thinking along those lines we must understand that it is not one of those situations where it cannot happen here. It can happen here, and when it happens here we must be ready, we must pre-empt it and ensure that we make it difficult for any terrorist activity to be conducted here, so much so, the financing of terrorist activity.

Madam Vice-President, in that respect, we are looking at improving not only our compliance in Trinidad and Tobago but globally, because once we remain in the situation where we are, you would find that globally financial institutions

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would decide that, “We are not doing any business with Trinidad and Tobago” and they would advise their colleagues not to do business with Trinidad and Tobago, and as a result of that you would find that all our industries, investments, people would not want to do—and not only with the Government of Trinidad and Tobago but business in general.

I remember at our last plenary in Paris, I was allowed to read a letter from our hon. Prime Minister, Mrs. Kamla Persad-Bissessar, telling the FATF of our commitment, and I think that that went a long way in easing the stringent measures that they had taken with respect to Trinidad and Tobago. They have thrown it in our backyard so to speak, and we now must ensure that we conform, that we comply with all 40+9; we will take some time to get where we want to but they must see that we are on the road to improvement, to getting closer to being fully compliant.

Once that is recognized—and I think they are well on the way to observing that, because, in collaboration with them, they are guiding us as to how we should go about it. Once they recognize that and we continue in this vein, I am sure that all our areas of compliance will eventually come to the fore, and with the help of colleagues here and with the passage of this Bill, I remain confident that in the not too distant future we all will be out of the grey area because I must tell you, Madam Vice-President, it is difficult to get out of the grey area, it is difficult, primarily because of their image of Trinidad and Tobago.

We now must let them recognize that we are working assiduously on getting there and we are not the arrogant people they see us to be because that is what comes to the fore. Even with the CFATF because we are now trying to show them that we are taking your advice, we are trying to do all that is necessary to get ourselves out of it.

We owe it to Trinidad and Tobago, Madam Vice-President, we owe to the people not only the Government, to elevate ourselves out of the situation that we are in. In this regard we are cooperating not only with our Caribbean colleagues but internationally as well, because, as you will recognize, when it comes to money laundering and terrorism it is an international thing, we need to link up with our colleagues, share information, share intelligence and that is what we are purporting to do, and that is what we are preparing to do. As such, we are now in the driver’s seat in pushing this legislation which is just part of it, and contrary to what was said with respect to SAUTT, remember there is an implementation committee dealing with SAUTT.

2.45 p.m.

Nothing has changed with SAUTT. All that has happened in the past continues to happen until that implementation at committee stage, okay, do (a), (b), (c), (d), and based on the reception of that advice or recommendation, then other things would happen in respect and so on.

So, Madam Vice-President, as I indicated, I would be particularly brief because I know that my colleagues on the other side will support us. As a nation it is imperative that we accept our collective responsibility in the global fight against money laundering and the financing of terrorism. It is against this backdrop that I commend this Bill to this honourable Senate.

I thank you.

Sen. Mariano Browne: [*Continuous desk thumping*] Thank you, Madam Vice-President, thank you colleagues. It is indeed a privilege and an honour—

Sen. Baptiste-Cornelis: “Long time no see”.

Sen. George: “Resurrection Easter, boy.” [*Crosstalk and laughter*]

Sen. M. Browne:—to return to this honourable Senate, if only to comment on a Bill that I piloted and to listen to some of the comments and also to some of the arguments that we have.

It is also sad to say that we have not moved as far as we ought to since October 2009, and at that time, if my memory serves me correctly, we were well on our way to meeting the standards which have been set by the FATF—[*Desk thumping and crosstalk*]—and I am particularly pleased to be reminded by Sen. The Hon. Brig. John Sandy [*Crosstalk*] that it is, in fact, a race, it is, in fact, a relay and that when you pass the baton, the man who is with the baton at that stage must run hardest to the finish line.

Hon. Senator: “Aye-ya-yaye”. Well put. Well put. [*Desk thumping*]

Sen. M. Browne: I make that comment in the context of several other statements which have been made, in particular, that, perhaps, the predecessor did not attend a FATF meeting.

I am not in the position to speak with any degree of authority on what meetings he attended, [*Interruption*] other than to say that I was present at the meeting that he attended along with two other Ministers, so important that we felt at the time that we should speak to the relevant authorities to convince them of the import [*Desk thumping*] and of the seriousness with which we held the

implementation of those recommendations and which we held to holding to our international agreements. That meeting was held at the Hyatt and attending on behalf of the Government of Trinidad and Tobago were four Ministers; the Ministers were: the Minister of National Security who would have been Minister Martin Joseph at the time; the Attorney General, Sen. Bridgette Annisette-George; the Minister of Finance, Mrs. Karen Nunez-Tesheira and the Minister in the Ministry of Finance, Minister Mariano Browne, in addition to our supporting staff.

So I can say that at no stage that I know, that I am aware of, was the Government of Trinidad and Tobago—let me put it differently, that the Government of Trinidad and Tobago was always represented at any meeting of EG as well as FATF. [*Desk thumping*] Whether the Minister was there or not, the Government would always have been represented. [*Interruption*] And to demonstrate our commitment as we were coming very close, if you will, to the late hour where we were under threat, where we were under serious threat, we demonstrated our commitment, especially since it was our own backyard to make certain that we had four Ministers present. [*Interruption*] I just make that point. [*Interruption*] It is also clear from listening to some of the Independent Bench that some of the questions which were raised when I first presented this Bill continue to be raised—the issue of independence, the issue of arm's length, the issue of autonomy and the definition of a suspicious transaction.

In fact, all of that was raised in the committee stage of the Bill in October. And one of the reasons we gave at the time for not putting a definition of what a suspicious transaction would be is that, at the end of the day, a suspicious transaction is exactly that. It would turn on the facts of the case, on the merit of the case and that is one of the reasons why, I think, it is in section 13—is it of the parent Act? I think it is something that is important that we need to remember. It is not only about convention, it is also about, if you want, the persuasiveness of argument. And section 13 sets out:

- (a) Financial institution or listed business may, where a transaction or activity appears to be suspicious;
- (b) a suspicious transaction or suspicious activity has been submitted in respect, et cetera;
- (c) seek the approval of the FIU to complete the transaction.

In other words, the whole purpose of the Bill was not simply one of enforcement. One always needs to enforce, there are always outliers which we need to pay attention to, but by definition one needed to seek compliance from the

organizations which were regulated, and we need to seek their compliance precisely because some of these fairly large and substantial businesses also need to maintain the confidence of their customers, and at the end of the day, the financial system, the bedrock of the financial system remains confidence, so that what we sought to achieve is compliance.

In other words, to encourage financial institutions to give the information rather than, for example, to go and ferret out and search for it, and that is basically one of the fundamental premises of the Bill that section 13 always says, “if in doubt report”. If you are not clear, seek validation. If, for example, we were to look at another larger administration than ourselves, this is what would be called “FINTRAC”, the Canadian designation, you would see that they themselves in terms of the desiderata which they put on the website, indicate that their primary purpose is to encourage financial institutions to declare activities.

In other words, if you have some level of trepidation, go through everything that you know, but by the same token if there is some inkling that says to you that this is a transaction that you are not comfortable with, follow it through. They actually also give examples of transactions which they have followed through to determine whether it fell within that test, and it turns out that transaction that they discovered did, in fact, fall within not merely suspicious, but it was in fact a money laundering transaction of a fairly complicated nature, so the example is on the website. But once again, the issue is to encourage institutions.

I think it is Sen. The Hon. Anand Ramlogan, the Attorney General, who was making the point that it is a patchwork, a quilt, and I think he was—essentially the point sounded as though it was critical of the way the legislation had been determined; we had so many pieces of legislation. But one has to remember that in a sense, it is also a race internationally and that the whole anti-money laundering compliance framework was built to deal with situations which became very difficult and of an international nature and it is noted that the countries that started it or what we would call the basis of the OECD countries, the large developing countries, who felt that the money laundering had become, if you want, could become, destabilizing to their financing system and it is precisely because of the potential destabilizing impact that they determined that they would find a way to treat with it and treat with it on an international basis.

In other words, that the prospect of contagion was not just simply what would happen in my country but what would happen in yours that would affect us. That is one of the reasons why international sanctions are so important as we begin to see elsewhere in the world, as we speak, circumstances which are fairly far

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removed from the issue of money laundering. I do not think I need to spell out what is taking place. For example, sanctions have been used by the UN to deal with Iran and sanctions are actually being used at the moment to deal with Libya.

But that is the sort of difficulty that we—we live in a global environment, and we live in a global environment which requires us to give up some of our individual freedoms and sovereignty if we want to live as part of a global village and if we want to live in a network of economic commerce that takes place everywhere. And that is one of the reasons we have to, in a sense, live in accordance and to some extent attenuate our sovereignty to satisfy the three significant international conventions which underlie much of these international transactions or rather the international conventions. That is the Convention for Suppression of Financing of Terrorism, the UN Convention against Transnational Organizations or Criminal Organizations and the other UN convention—

Sen. Al-Rawi: Crime 2003.

Sen. M. Browne: Right, correct. So, between 1989—2003 we had the development of conventions in a sense which we, by definition, have to follow, and that, not only do we have to follow and not only do we have to live within the spirit of the convention, but it is a very important thing for us to be seen to be implementing the convention in a fashion which makes us a good faith third party to deal with.

That is not only because of what has taken place in 2001 in the US, but, importantly, that terrorism and money laundering have the capacity to undermine our financial system and we need nothing else to undermine our financial system extraneous to the simple fact of economics. If we had any doubt about that, 2008 has made us realize how closely intertwined as a world we are and that destabilizing the effects in one jurisdiction ripple through the entire world economy.

So that we would not want, if we will, our financial system to be destabilized by criminal activities, hence the reason for the network, the patchwork and the quilt. Of course, over time as we consolidate and we improve the legislation, we would find ourselves as a competent and a cogent set of legal jurisprudence which in fact would be codified at some stage. I am pretty certain that we are moving to that internationally, and by definition Trinidad and Tobago would move with it as well.

So the critical issues that we discussed at that time—in 2009 and it is always good to reflect what went on and what went past us—I think the critical issues which were raised by the Independent Bench and by the then Opposition were the issues of independence and autonomy and the absence of political interference. The

power of the Minister, and as set out in section 28, I think the Independent Bench particularly wanted—in fact, they wanted to have sunset legislation. They so did not want the Bill to pass in its form, because they felt it was draconian, it was an administrative unit. One Senator was minded to say that it was probably the weakest form of FIU that we could use and he could not see how it could possibly survive, and he is here today.

Sen. Baptiste-Mc Knight: He was right. *[Laughter]*

Sen. Bharath: He survived.

Sen. M. Browne: He survived. *[Laughter]* He was Independent, so by definition he would. *[Laughter]* I am happy to see while we are talking about the business of survival that you have exchanged your seat for one in the Upper House. We do real work here.

Sen. Bharath: Thank you. *[Laughter and desk thumping]*

Sen. M. Browne: At the time, the specific difficulty was the issue of how we would appoint the staff. In fact, when we went to committee stage, it was the issue on which we had—three issues came up: the issue of the appointment, who would appoint the staff; would the staff be independent; would the power of the Minister be limited; how would we guarantee that independence?

I think a number of the Independent Senators on the Independent Bench who are currently here today—and I have been told I should not call their names otherwise they would take me to task for other things—they made it a point to say that they wanted a review if only to see how the system that we had put in place operated over the period of a year and they wanted to ensure that independence that they were searching for was amply demonstrated by a review at the end of the year. And that is the reason section 28 was changed to reflect that.

And also too, they wanted it to be clearly established that the person who would be appointed to head the FIU would be a professional who would have no allegiance to the Minister and owe the Minister nothing. So on this basis not only would he be seen to be independent, but he would be protected by, if you want, the civil service regulations which would make him an arm's length third party.

3.00 p.m.

The Bill also goes on, and it is reflected in the offences and penalties section which not only lists offences and penalties for those who would contravene the Act by way of money laundering or any other matter, but also those in the intelligence unit who might compromise the actual operation of the unit by giving information which

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they ought not to pass on. They themselves are subject to fine. It was felt that it was sufficiently strong or that action needed to be sufficiently strong if only to ensure that spirit of independence was maintained at the level of the staff. I think in the committee stage I was minded to give a procedure which would ensure that the Director and the Deputy Director and any other officer appointed to the FIU would remain independent and that procedure required them to be appointed, if I am not mistaken, by the Public Service Commission.

Sen. Al-Rawi: No ambiguity.

Sen. M. Browne: So there was no ambiguity in that. I am happy to see that the Attorney General has recognized that, and has made the necessary amendments by making it pellucidly clear and introducing it as part of the amendments that we are debating here today. So I do not think that we can have any argument with that. We accepted that principle, we said that is how we would do it and I am happy to see that the relay at least on this particular point is being run to the finish line, so that we could live with that.

A point that was made—and I listened very carefully to Sen. Dr. Rolph Balgobin, he always makes the point, and I guess it has to do with his background, where he comes from—a business background and certainly one who teaches business—so that he is always clear that businesses should never be given more than they need to be given, and they need to operate with probably less regulations. So from his perspective he was making the point about why we need to fill out that information.

One of the difficulties in this quilt work of legislation is that our inter-agency rivalry, or in fact, the silos of information that exist between many of the arms of the State, we need to find mechanisms to ensure that those pieces of information flow easily, but once again with the degree of confidentiality which is required to maintain the underpinnings of our system so that we will maintain confidence in the system. He made the point that in a sense it was onerous. He is right. He is very right.

Anti-money laundering and compliance legislation is the fastest growing area of financial activity, in fact, the fastest growing component of the expenses for financial institutions, because effectively it really does not give you any revenue. What it forces you to do is maintain a fairly detailed system of supervision to ensure that suspicious transactions wherever they occur are identified or people who may be prone to operating in that world are also identified. So that is one of the biggest difficulties, one of the biggest areas of growth and that has also been identified by KMPG—I think in a recent study where they have pointed out that between 2001/2004 the area of growth has been by a factor of—*[Interruption]*

Sen. Al-Rawi: Forty per cent.

Sen. M. Browne: Yeah, 40 per cent. And I dare say that since 2004 when the regulations have become far more onerous that it has grown even more. I myself, when I used to run financial institutions, it is something that we always paid great attention to because by definition it generated no revenue. So that is one of the unfortunate difficulties that we live with in the modern world. In order to ensure the probity of this system we must spend more time making certain that the transactions which we managed through our systems are in fact bona fide financial transactions. None of us is immune, not one, of any kind.

One of the biggest issues as well in terms of following through the definition of a suspicious activity has to do with probably three underpinnings of what we would consider to be anti-money laundering legislation and also the intelligence unit. That is to ensure that three principles are maintained.

One, that there is objectivity in the decision-making, in other words, you can look at it and decide if it makes sense or not. And if it does not satisfy the test of sense, the necessary work that you will do to follow it through. The other thing that is also critical, particularly, as we grow and I think that the point has been mentioned by more than one Senator here today, is that we live in a world without borders electronically and that is timeliness.

One major financial institution with which I had the opportunity to work, that handled billions of dollars in a day, there were thousands of transactions, considered applying anti-money laundering guidelines to a whole series of electronic transactions which were coming in from all over the world. It really requires that your systems be robust and the systems at the end of the day for them to be robust by themselves had to be statistical and by definition also had to be electronic, because there were just too many transactions that were moving through. You are not going to be able to apply the human eye to determine what a suspicious transaction is, so there are parameters that you have to develop. Those are the standards and practices which an FIU has to stay close to in staying close to the organizations which it seeks to supervise or alternatively monitor.

The third point is the strict protection of the confidentiality of data. No system will work and there will be no disclosure if the financial institutions, regulated or not, do not feel confident in the system, even more so if the customers of those financial institutions feel that the information, their financial data, is going to be leaked, if you will, at the drop of a hat.

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So those three ideas: objectivity, timeliness and confidentiality, have to be at the root of any FIU for it to work. It is also reflected in the Bill. In this Bill it allows and it gives the FIU the capacity, the ability to share information with other international agencies, and for other international agencies—and it is a two-way street—to share information with you. It requires that they must feel confident about your processes; about the fact that you will use the information properly and alternatively, that you would not leak it in a fashion which will hurt their intelligence process. So it enjoins us to behave in a very responsible fashion.

So that when we look at some of the provisions of this Bill—and I think my colleague, Sen. Faris Al-Rawi, had indicated that there are some drafting issues which we need to pay attention to—but there is also, if you will, a little conflict that is contained in section 18A and it is, in fact, mirrored in the debate, in the committee stage I think, when we talked about the issue of what the supervisory element—no in this Parliament, earlier this year when we were talking about the supervision. In fact, I heard the hon. Attorney General having some difficulty about supervising agencies which were already supervised. This is when he was talking about the credit unions which are themselves subject to supervision. So here we have two supervising agencies. Albeit said that one agency is really meant to monitor, if you will, the issue of suspicious transactions and making certain that those transactions are clean and in accordance with our international remit. But it does give us a little difficulty with the issue—Part IIIA where we talk about the supervisory authority. Perhaps in clause 18A we said the word is “monitor”. I think probably that is really what we are talking about as distinct from supervision.

Now, I think we said very clearly that this Bill is simply one of a package of pieces of legislation so that they must all work together, and I think that this Bill does have improvements if only insofar as we can start off with its title which amends the previous title and puts it far more clinically:

“An Act to establish the Financial Intelligence Unit...of Trinidad and Tobago, for the implementation of the Recommendations of the Financial Action Task Force on money laundering and the financing of terrorism and for related matters”.

I think that puts it far more clearly and we have moved away from the mischief of “any other law”, so we will not bother to go to that particular aspect.

3.10 p.m.

One of the difficulties I had in terms of working and operationalizing the amendments as it stood had to do with the issue of timeliness, and I think Sen. Basharat Ali, in his comments earlier on this year, spoke about our ability—we can pass legislation but our difficulty always remains, implementing it. That is one of the particular issues that attracted my attention.

We had set some time frames in this Bill. In one instance, we stretched it from three to five days; in another instance we had also improved the recourse to the court and spelt out the procedures which are to be followed there. I think that is important as well, subject, again, to the issues which had been identified by Sen. Al-Rawi with respect to the drafting and the repetition or omission of certain types of businesses.

One of the issues that I was looking at and which made me pause to think about how it would be implemented, was the issue of investigation. Clearly, if information comes to the Financial Intelligence Unit and it has to give notice to the business, it means that that information was not the subject of disclosure. In other words, the organization being supervised or monitored did not volunteer this information. So the issue would be, where did this information come from? Because the way the legislation was designed was that the FIU will, in fact, collect information and, if it felt it necessary after using its own objective test, would pass it on to the investigating agency.

So the issue, for me—and the Attorney General, to my mind, had not adequately identified where was this information coming from that would lead to this very specific action on the part of the FIU, in terms of going to the court for an order or writing the organization indicating that it was going to take certain types of action. Where was the information coming from? I think this is what Sen. Al-Rawi also alluded to. Which is the agency that would be charged or that would be giving this information to the FIU? That is not clear and, perhaps, we need to hear a bit more about that in the winding up in terms of the modalities, the methodologies and the arrangements for making those things to take place. [*Interruption*]

Correct. Exactly. Where is this intelligence which is not being generated by the Financial Intelligence Unit coming from? More importantly, since it has to be objective, since it has to be timely and since it has to meet the test of confidentiality, then, by definition, it places a great burden on a third party organization which is not named, which is not identified and which, for all intents and purposes, is unknown. [*Desk thumping*]

The issue of unregulated or unsupervised institutions—and I am not going to talk about the unregulated financial institutions, because that is a matter of time. I think it is only a matter of time before all financial institutions are regulated, and I think it is something that we need to do more quickly, but that is another argument, and I will not go in that particular manner.

The issue is with regard to unregulated businesses and the issue of what is reasonable to expect an unregulated business to declare. For example, we are now saying that anti-money laundering and compliance routines must, by definition, be extended to a whole series of businesses which, by their very nature, are routine one-off transactions, which, the realities of knowing your customer in those circumstances are going to be very different from that of a financial institution which, by definition, has an ongoing contractual relationship with its customer.

That is, again, a matter for—how shall we put it—some debate: the issue of regulation; how is it going to be done? What is the level of training that has gone on so far? How has the conversation with these businesses been managed, and what deadlines are in position, or alternatively, what realistic level of compliance do we expect from these institutions? And, by definition, they must be small. Many of these institutions are small.

So notwithstanding the fact that there are many businesses which are being formed—and I think that is the point that was being made by Sen. Dr. Balgobin when he asked the question about what were their bona fides; was their money from clean sources. I think that there is a reason and one would want to follow that through, but by the same token, some of those businesses also have relationships and there are several other methodologies that can be used to determine that.

In a conversation with one of my colleagues here early on today, we were making the point that Al Capone was not captured on the basis of any breach of what one would call criminal law. Eventually Al Capone went to jail on the fact that he was a tax evader. So the reality is that one has to use several different sources, and once again, if we may use that analogy, the organization which set out to deal with organized crime had to be an organization which was apart and separate from the then police force, for reasons which were well known to us, and they determined that they could not deal with Mr. Capone on the normal criminal law basis; they had to find another methodology.

So, clearly, when we are looking at the various pieces of legislation which are set out here, which are, I think, reiterated under clause 18E where we set out the Proceeds of Crime Act, the Anti-Terrorism Act, the Financial Obligations Regulations, the

Financial Intelligence Unit and the regulations made under the Anti-Terrorist Act, and any other written law, clearly, if there are other aspects in terms of applying the Financial Intelligence Unit, we need to also have a very eclectic methodology in terms of how we treat with the other issues of crime, which I know will attend and keep the Minister of National Security busy.

So suffice it to say in this brief little time that I have had here in the Senate on my revisit to this particular matter that we have moved along, but what is of great concern to me is that we find ourselves virtually exactly in the position we were in 2009. So as much as one would like to say that the previous administration did not do anything, it, in fact, did what it was required to do. It may have taken a long time to get the Bill in position; it may have taken a long time to get the other pieces of legislation into position, but it did it, and it did it in 2009. [*Desk thumping*] It also set out an agenda for meeting and complying with the programme, which would have required us to bring us up to date, in other words, in order to meet all the requirements.

Clearly, something has happened with that particular programme. I am not certain what. It is possible that there is a difficulty in terms of any new administration coming in. They may have taken their eyes off the ball, or, alternatively, the staff that was there, who may have understood what they were doing, may have left.

Sen. Deyalsingh: Or were fired.

Sen. M. Browne: May have left, for whatever reason, and a relationship with your counterparts in other jurisdictions, particularly the ones who are supervising you, who understand where you were, also involves your ability to communicate where you are in terms of your agenda. When they are not there, you have another issue. “Who am I speaking to? Does the person know everything else that went before and are they fully au fait with the agenda and the work programme that had been established in order to ensure and to meet our international obligations?”

That is a very practical matter. If the person is not there and the people who are there did not have the relationship, then, by definition, the person who is supervising us, who is evaluating us, is going to say, “You are not doing what you are supposed to be doing.” That is what happened. So you could do what you want; you could try to say that the previous administration did not do what they were supposed to do, but the reality is that there were personnel changes and one must not fail to underscore the impact of those personnel changes in terms of slowing down our process of compliance. [*Desk thumping*]

The other issue with that is that if we have people who are in position, most of whom would have been recently appointed; some of whom may not have been validly appointed—and that leads us to the saving clauses which are included in this particular Bill—the issue is: are they trained to comment on anybody’s compliance programme or the adequacy of that compliance programme? You have to have some level of skill or having dealt with some compliance programme yourself, in terms of designing them, to determine what is adequate and what is not adequate, and whether you are doing what is required to bring those businesses which you are now bringing into the net which were not previously there before, to say that, “We are happy or not happy with what you have done.” If you do not have the relevant experience, then, by definition, how are you going to know that everything is being done that ought to be done?

So there are some issues that Sen. Basharat Ali had pointed out in February that remain germane to our compliance, and the issue is one of experience. That is a fundamental fact. If you do not have people who have done it before; they have not been trained, we then have to ask the question; who is there to train them? Who has come in to see them through this particular process? I am informed that the consultants who were engaged for that particular task have not been used. In fact, their contracts may have been terminated as well.

So that I fully understand the need for Trinidad and Tobago to become compliant, but I also understand that we must operate in a more disciplined manner and in a more organized fashion if we are to meet our objectives. The objective is not for the Government; the objective is for Trinidad and Tobago. We would all look bad as a country and it would affect us all if we do not meet our obligations. So from that perspective, one needs to establish—to use the term—a certain objectivity in terms of how we evaluate what we meet and how we evaluate our steps that are required to move the country forward in meeting its international obligations.

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

Madam Vice-President: Hon. Senators, while it is certainly not his maiden contribution, I wish to recognize the contribution made by Sen. Mariano Browne in the first session of the 10th Parliament and also to recognize as a former senatorial colleague when he was Minister in the Ministry of Trade and Industry in the previous administration. Congratulations. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Thank you, Madam Vice-President, for giving me this opportunity to speak on this amendment to the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) (No. 2) Bill, 2011. This is the third time in just under two years that I have risen to make a contribution to a debate on the matter

of a Financial Intelligence Unit, and because so many debates have taken place in such a short time, it would give an indication that we have not been able to get it right and that we, as a Parliament, have had to take urgent steps to deal very often with this matter of being blacklisted.

The first time it came, it came like a thief in the night and when it came like a thief in the night, the Government of the day said, “We are going to be blacklisted.” [Interruption] Or we are going to be severely sanctioned, because my learned friend does not want to have the term “blacklisted”. So I am going to say “severely sanctioned”, which ought to mean close enough to the same thing. [Desk thumping] [Crosstalk]

The challenge has been for us, trying to get this piece of legislation right so it can do what it was supposed to do way back in October 2009, which we are still trying to do in April 2011. That is the point.

3.25 p.m.

I am very happy to welcome my friend and long-standing colleague, Sen. Mariano Browne, because he was the man who first put this matter to the Senate, and at that time we got into the question of shall I say, “severe sanctions” that could be placed on Trinidad and Tobago at that time. [Desk thumping] And it was from the Independent Bench that the question of the autonomy of the Financial Intelligence Unit was raised. Some raised the matter of an autonomous body appointed by the President, and there were counter-arguments. The counter-arguments were that such a body had to be within the ambit of the Executive and we heard at that time the whole question of an administrative model, and a prosecutorial model and so on.

The bottom line is that we are still striving to get it right 18 months later, and while my learned friend, Sen. Browne, speaks of the question of quilt—I think which is a euphemism for patchwork legislation, the issue is, when are we going to get it right? And so today, as we come to this third session, much blame has been assigned by one party to the other, whether it be the current Opposition to the current Government, or the then Government to the current Opposition.

Whichever way you look at it, we have to share the responsibility, even though some people might say we have to share the blame, we do have to share the responsibility that we have not gotten it right. And to all of those who have made genuine efforts to get us to a place where we are going to get this matter in the right position, so that we will not suffer from international sanctions, I want to pay my compliments.

And you would know the history of this matter in three parts. The first part is that when we had the 2009 legislation, the head of the Financial Intelligence Unit was someone who filled the rather dubious title of director-designate. And when that person filled the title of director-designate that position was supposed to be a public office. And so, the question arose whether this is a legally binding position, and more importantly whether it was a legally binding position or not, whether any actions taken, any information gathered, any evidence put forward by that director-designate, would not be challenged in a court of law as being invalid and illegitimate, and so that was part one.

And so, we had a vast amount of ranting and raving from either side. And it has been proven today because of validation, in my mind it has been proven that that was an illegitimate position.

And then the second part of the history is you had a quick correction, and what was the quick correction? It was our learned Attorney General who joined in the debate and made some rather poignant comments about what needs to be done to correct the situation. And the correction took the form of taking a public officer to sit in the position, but that position was not appointed by the Public Service Commission, which was the basis of another furore that took place in the other place.

And so, we now come to the third leg where the baton is being passed, because I think we have been using the word “baton” all around today, and before. And so we now come to the third leg where we need now to move to validate mistakes that have been made previously, and I do not think that anything is particularly wrong with that, I do not think there is anything—the finger pointing must stop at some point in time. What we need to do is take the nation forward, and I commend those who have taken the steps to take the nation forward and bring us to this point now where validation—if the Bill is passed validation will be in place.

And the point has been made before, that even though we validate everything that has gone before we might have a lacuna—which we will still have to resolve hopefully at committee stage—such that any action taken from the date that the Act is in place until that point in time where we can have an appointment made properly and duly by the Public Service Commission, we need to find an elegant way to bridge that gap. And that elegant way may be to put something in the legislation, which says that we are in fact, making the appointment or arranging for the appointment of some interim director until the appointment by the Public Service Commission. And that is something we will have to consider as we go along.

Madam Vice-President, I do not think that all our citizens understand how critical and important this piece of legislation is, because I have been asked many times, why are we going through this piece of legislation over and over and over again? And I will tell you why, and I will say to the national community why this is very important from two perspectives. The perspective of one, of the citizens, and two, from the perspective of the financial institutions and intermediaries that have to do business with each other in this country, and with other financial intermediaries abroad.

Now, Sen. Hinds is not here. So if we are blacklisted—if we find ourselves blacklisted, you could have a situation where you want to send money to your children abroad, whether it be for university or you are helping your child abroad to get on his feet you might not have a bank on the other side that is prepared to receive your money to pay to your child abroad. That is how serious it is if you find yourself severely and strictly sanctioned. So this is a very serious matter that does not affect the Parliament only, but affects each and every citizen of this country.

What about some of our citizens who have to pay via their credit card for things that they might buy on the Internet? Well, if the transaction cannot be settled, because this country is strictly sanctioned or severely sanctioned, you could have a situation where you cannot buy something from abroad—you could, I am not saying that you will, but that is how difficult it could get. And therefore, this matter of dealing with the Financial Intelligence Unit as part of a series of packages starting with the Proceeds of Crime Act in 2002, and the Anti-Terrorism Act of 2005, this is the icing on the cake which closes the loop. And so it is very important for us as citizens, and for the Parliament, to ensure that our citizens will have the right and the privilege to do business, to conduct their affairs in a certain way that will not be impeded by dint of us in the Parliament, in this Senate, not taking proper action and not taking timely action.

And the second part of the equation, Madam Vice-President, is this matter of our financial institutions having to do business across the world. And so if we find ourselves blacklisted you may find that a local bank is not in a position to send money and do business with a counterparty bank. I must declare that I am in the business, in another place, I am in the business of financial transactions with international players, and I can tell you, in my long experience in the area of finance, that we have reached a point now where setting up an account with an international counterparty—and I heard my learned friend and colleague Sen. Dr. Balgobin speak to Singapore.

3.35 p.m.

I am aware of one institution in this country seeking to set up an account with a counter-party in Singapore and, it has taken one year and two months. It is not because of the relationship between the institutions, but it is because of that one section of the institution called “compliance”. They want to know who your father is, who your mother is, who your girlfriend is and, now and again, they will want to know who your wife is. They want every single piece of information—who are the shareholders of the company and how did they come about by their wealth.

These are very, very critical matters and they take time. They take a lot of time in doing that. So, therefore, it really comes back to the investor, someone wanting to do business, having to go through a financial intermediary. They can go through a financial intermediary in Trinidad which does business with a financial intermediary abroad, or they can go directly to that financial intermediary. But now the game has changed so considerably that it takes a very, very long time to be able to satisfy compliance in other jurisdictions and, indeed, that will be the case in our own jurisdiction to ensure that the source of funds are sacrosanct. If they are not sacrosanct and they are questionable, you will find yourself in difficulties.

Institutions here and now, apart from the banks—you would go to the bank, Madam Vice-President, or send your driver or whoever it is, and for years now when you hand them a certain amount of cash, more than \$10,000 or \$8,000, you have to fill out—or more than \$60,000 in some cases—a form saying where you got the money, how you came by that cash and so. So, that situation is multiplied many fold as we go along, where now, apart from the banks what you have, are security firms having to fill out and get from their clients, through the know-your-client process, where the funds have come from. This is a long and drawn out process. I part company with my learned friend, Sen. Dr. Balgobin, when he speaks about the question of, shall we say, overregulation and whether it is necessary for businesses. It is necessary. It is necessary, because in the long run the nation is hurt if we do not get this matter of anti-money laundering right and, those who are on the right side of the law will thrive and prosper and those who are on the wrong side of the law will have to give account for the proceeds of their funds.

That is how it must be. That is how it must be if we are going to take our rightful place among nations of the world to ensure that we can do business with other nations and that our institutions can do business with other institutions, and that our citizens can ultimately do business with other citizens in other nations.

There is no substitute. I am afraid there is no substitute, but it takes time. It takes a lot of time and it requires a lot more effort, but if that is what it takes for us to find our way in the world, that is what we must do as far as this matter of anti-money laundering is concerned.

Of course, mention has been made about this matter of anti-terrorist financing which is another part of the equation, and that has been brought to bear in the Bill before us today, where we have injected the whole notion of anti-terrorist financing, and given the Financial Intelligence Unit the responsibility to monitor and to ensure compliance with the various businesses, whether listed businesses as set out in the Act or financial institutions that they must comply with the requirement, not of our law which is based upon treaties that we have with other nations. So it is a very important piece of legislation.

I want to turn to some of the bits and pieces that have been injected into the current Bill, and one is the role of the Financial Intelligence Unit as a supervisory authority, as has been injected under clause 18. The role of the supervisory authority as mentioned by the learned Attorney General, Sen. Ramlogan, is to ensure that there can be better effectiveness in achievement of compliance in order to identify those persons who may be in breach, and to take the necessary sanctions, legal and otherwise, for those persons who are in breach of the law. So I think it is a reasonable, and it is a significant injection into the legislation for the whole question of anti-money laundering and anti-terrorism.

We have made one step up, that of the supervisory authority, and it makes good sense to me. I see no reason why there should be any particular objection to that particular addition, but I want to ask the question as to the effectiveness of the Financial Intelligence Unit. Here we are, limping along with this Financial Intelligence Unit for almost two years. The unit has not been properly staffed. The unit has been, as we are debating today, probably illegal in the sense of the head or director of the unit or the illegal employment of the incumbent. I have heard stories, some of which I have been able to validate as to the lack of necessary resources in order to carry on the business properly of a financial intelligence unit.

If you are going to find that there is a massive backlog in terms of even the unit opining on whether anti-money laundering programmes and policies are proper and if you have to wait months and months for feedback, then you get yourself into an issue of effectiveness of the unit and that brings into question the credibility of the unit to effectively function and discharge its duty properly. Because if you cannot deal with the simple things such as establishing a

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framework for a proper anti-laundering programme and anti-terrorism programme, financing programme, what is going to happen when you are going to have to chase after institutions that may be in breach of the laws? The resources are not there.

So, I appeal to the Government that once the legislation is passed—which I expect that it will be, based on the pronouncements made in this honourable Senate—to move expeditiously to properly resource that function, failing which, you are going to get a failure to launch and if you get a failure to launch it is going to be humpty-dumpty like in order to restore credibility and confidence in that particular unit, especially where it is already placed so close to the political game. Move quickly to ensure that that credibility is in place and it will grow over time. That seems to me to be the one issue amongst others, but it is the one issue that could cause severe pain in terms of promoting ourselves somewhere down the road, if not now as a regional capital market or as an international financial centre, or even as a good place to do business with. Because, if people have to come here to do business with us—this is apart from the local situation—they will have to come and bring their money through financial institutions. If there are any issues with regard to the proper operation of anti-money laundering and anti-terrorism financing in accordance with the treaties that we have signed and in accordance with our laws, you are going to find severe issues of compliance, not here, but outside, and it is going to deter business.

So I want to appeal, again, to the Government that, yes, we may have had some false starts, we may have had some improper handing over of the baton, but the baton is now firmly in your hands and you will carry the credit or you will carry the candle dependent on your performance here going forward.

So, I want to conclude by speaking to what is happening on the ground here a bit, and speaking to what is happening even in terms of the stock exchange where the requirements for money laundering, the bar is already being lifted. I want to comment that when a new client comes to institutions now, it is in fact a requirement that you go on an international database to find out whether there are any issues with that particular client. You check whether that client is on any blacklist—because that is the word that is used. I wait on my hon. colleague, he will give me another name, a synonym. If you are on that list you cannot do any business. So, I think our financial institutions have been making the effort and have been moving along to ensure compliance, because it is important for them locally and it is important for them doing business internationally. I think it is

now incumbent upon the Government to ensure that the regulatory and supervisory authorities that will deal with such compliance are firmly in place and are able to get the job done as my learned colleague said, with objectivity and with timeliness.

With these words I thank you, Madam Vice-President. [*Desk thumping*]

The Minister of Planning Economic and Social Restructuring and Gender Affairs (Sen. The Hon. Mary King): Thank you, Madam Vice-President. I do believe that Sen. Ramkhelawan really has painted the picture that we found and that we are very concerned about at this time.

I just wanted to go back and make some comments on comments which had been made earlier in the debate. For example, Sen. Faris Al-Rawi, you asked: “Why did it take so long to get this Act in place?” After discussions and after I stood over there for many years as an Independent Senator, as a member of the Global Organization of Parliamentarians Against Corruption and as a member of the International Task Force on anti-money laundering and combating the financing of terrorism, I begged and pleaded that we bring the Bill to the House. It was not brought in those days. It was brought in 2009. So, I do not think that the question is fair to ask: how did it take so long for us to bring it back to the House?

When we did get an Act, Senator, in 2009, we got an Act which was totally inadequate, totally inadequate to comply with the FATF 40+9 recommendations. I presumed you went back and read since 2003 and 2004 what those 40+9 recommendations were. So we had to become compliant, Sen. Al-Rawi, so that we can address the international crimes such as money laundering and financing of terrorism. No country is exempt from the scourges of these particular crimes.

3.50 p.m.

Also, Madam Vice-President, we have on track, on the way to this Parliament, other laws which are related to: trafficking in persons, data protection, all of those laws, Sen. Al-Rawi, which should have come a long time ago. We are bringing them and now we will have a clean and reliable system within Trinidad and Tobago.

We have also been told by the Senator that the Attorney General is asking us to modify the operations of the FIU and give descriptions and powers and functions to the FIU. Yes, you have asked why the AG is doing these things and validation of actions of the director and the deputy director. I would really like to ask the hon. Senator, what organization was actually set up in 2009? What reports

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did we receive from the FIU since 2009? What reports did that director-designate supply to this country since 2009? [*Sen. Al-Rawi stands*] [*Interruption*] You can speak later.

Sen. Al-Rawi: Do you want the answer? Oh, it is a rhetorical question. [*Laughter*]

Sen. The Hon. M. King: Madam Vice-President, Sen. Faris Al-Rawi has told us it was denuded and to say that it was denuded is being less than honest. It was a shell, there were no operations going on, there were no reports emanating from it, and if one finds like we did—we found nonsense! When you find nonsense, you have to deconstruct it, you have to reconstruct it until it is doing what it is supposed to do and able to operate. [*Desk thumping*] It was not able to operate.

Sen. Al-Rawi: Point of clarification, I want to thank the hon. Minister for giving way. Is she speaking from her personal knowledge, just asking, for point of clarification?

Sen. The Hon. M. King: I will clarify again. It was denuded. You said we had to—we found nonsense, we found a shell, we had to deconstruct what was there, analyze what was there and reconstruct it to make it operational so that it can operate as it is supposed to be. Madam Vice-President, to do that is not to fool the people as Sen. Faris Al-Rawi has made us believe today. We are fooling the people. How dare you!

Then he asked how can we operationalize the FIU when we have thrown out SAUTT? How could he say that? He knows that SAUTT itself was an unlawful entity. [*Desk thumping*] And he knows that SAUTT is being restructured, and that they will eventually form the SIA. So, it was very necessary to rationalize what we found in SAUTT, very necessary. It was operating outside of the jurisdiction of the Commissioner of Police. How could that be a legal entity? [*Desk thumping*]

Also, we were asked, what is the budget to operationalize the FIU? The Senator must know that when you change something within the budget year, you actually change it, and then you come back to the Parliament and you ratify it, and you vire funds in-between and that is the process. You must know that. So your questions, Senator, are very strange. No matter how new you are in the Senate, your questions are very, very strange. [*Interruption*] Strange, yes.

The other point is that the non-regulated, non-financial institutions were not in the 2009 Act and we have now included them in this amendment to that Act, so they are now included, the non-regulated, non-financial institutions. Our review

of the Act had brought that to light, so we have now included them in this amendment. Thank you. So do not ask who took us down the road to the grey list, I think the Senator is being less than honest, Madam Vice-President.

Sen. Dr. Balgobin asked: what is a suspicion? Actually, the World Bank Report or the World Bank guidelines for establishing financial institutions has given us some very interesting definitions of suspicion. I will just give you a couple of them from different countries, how they have defined suspicion. A suspicion is a conclusion to which a reporting institution arrives after consideration of all relevant factors. Now, in the UK and Scotland, the meaning of the word would include the idea of imagining something without evidence or on slender evidence. The US tells us that suspicion has been defined as the imagination or apprehension of the existence of something wrong based only on slight or no evidence. In France, a simple conjecture, opinion, advice or hypothesis or even an intuition, so that is how it is defined in the literature. So as somebody said, you cannot be specific as to what a suspicion is. You cannot be specific.

I want to thank you, Sen. Dr. Balgobin, for reminding us how long it took Singapore to get from being a developing nation to a developed nation. It took them almost 30 years. We are aware how long it will take, Madam Vice-President, how long it will take us to restructure the institutions that we have found and even to restructure the economy, and regret that this did not take place or start a long time ago. That is a great pity, indeed it is!

A question was also asked, Madam Vice-President: how do we get out the information on the listed businesses and the details of the FIU for the ordinary man, as well as for listed businesses themselves? We know that, and we have already begun to plan for the public education that needs to take place, not just among the public but among the businesses, the now newly listed businesses, as well as the financial institutions.

So I just want to reiterate the point that Sen. Al-Rawi kept saying that it took us so long. The facts are that over five years ago this issue came up and was not at all taken seriously until the Caribbean Financial Action Task Force actually came to Trinidad and Tobago and started the discussion that the past Minister of Finance appears to have attended. So, Sen. Browne, the movement should have taken place in those days—2005 to now—and your meeting at the Hyatt took place in 2009 just before you brought the Bill, an inadequate Bill, may I also add again. [*Interruption*]

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But, I think, Madam Vice-President, we signed these international agreements many years ago, and I think we really, as a nation, are responsible and ought to have brought into being all of these conventions that we signed. Besides the FIU, there is also the anti-corruption agency which this Government is now furiously working on to ensure that that comes into play because our financial system has to be protected against any kind of destabilization.

4.00 p.m.

Madam Vice-President, the FIU has been established with the independence that is required of it. We have, yes, established a hybrid model with the appointments of the two senior people being done by the independent entity the Public Service Commission, and the other professionals will be appointed by the permanent secretary in consultation with the director. When one examines the World Bank recommendations on establishing FIUs, they have actually gone into great detail and identified the particular units that have to be established so that that FIU can operate effectively.

It has to have an analytical unit, it must have an information, cooperation and data exchange unit, an administrative unit which would include the information technology which will be secure, and also a security compliance issue and then again a totally separate compliance unit for the whole of the FIU. So our job is to ensure that the FIU that is being established and properly staffed now will be properly equipped in order to perform their functions according to the Bill.

At one stage the World Bank was actually suggesting to small island states, especially states like the Caribbean and the Pacific States, that because it is so costly to establish these FIUs in individual nations, the operational costs are very high, that they actually had looked at setting up regional FIUs. This was not actually accepted by the Caribbean Financial Action Task Force, but today in the Pacific, Madam Vice-President, the Pacific Group is planning an organization which would support the national FIUs in that subregion, rather than a regional FIU. So each unit will remain a national unit, but they will have regional support for their operations.

So perhaps when we are established properly, we may also begin collaboration with our own Caricom region and see in what way we can actually strengthen the FIUs in the region, as well as our own. This may make us stronger and obviously at less cost than for each country to do it on its own.

The sharing of information, Madam Vice-President, especially among domestic agencies, is of prime importance and this also is part of the FIU that is being established. Sharing of information among banks, money remitters, financial

regulators as well, other government agencies like the registry of companies and entities like the tax authority. So we need to have support, sharing and strengthening that sharing of information among our institutions.

Madam Vice-President, looking at the real issue, the serious issue and the international nature of money laundering, all efforts will be made by this Government, and by the FIU, to join the Egmont Group of FIUs. You are aware that there is a group that has been formed many years ago. I will just give you a little outline of what it does so that Members and the public would be educated on how we can work together and share financial information from these FIUs.

This group met in Egmont Palace in Brussels in 1995, so we are going back a long time since this group had already begun to work. They met with a view of the benefits inherent in the development of an FIU network to establish an informal group for the stimulation of international cooperation. This group now known, because of where it was started, as the Egmont Group, meet regularly to find ways to cooperate, especially with regard to information exchange in training of staff, which was an issue that was raised here today, a very important issue, the training of staff, and, of course, the sharing of expertise.

In areas where we may be short of expertise, we can have that resource come into Trinidad and Tobago and help us to strengthen the capacity of our own staff within the group. And it really is focusing on those FIUs now being developed, so that we can get early cooperation with them and become stronger agencies in a shorter term than if we were doing it on our own.

I do not think that our eyes will be taken off the ball, Senator, as it was only in 2009 the Bill was brought to this Parliament. I do not know where their eyes went, but they were certainly taken off the ball. Five years of refusing to meet our international agencies is certainly not good enough. The importance of us getting this FIU, getting its business right, has implications for each one of us, and not just us in here, but each one of us in Trinidad and Tobago, and that is what this is all about.

People need to be able to conduct their transactions in a credible and strong fashion. Businesses cannot operate in today's world without international transactions, either buying or selling, and we all know that. The liquidity issue in this country is also very important, Madam Vice-President, and we cannot take our eye off that ball in any way. We do not know the amount, how much of that liquidity could be money laundering, could be financing for terrorism, we do not know, we do not have the facts, and therefore, we have to start analyzing what is happening in our own situation.

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The second piece of legislation, Madam Vice-President, that is coming is necessary for us to clean up our act which is now almost completed thanks to the operations of this Government. Since May 2010, we have taken the situation very seriously and are acting in a timely fashion.

An FIU that receives reports of suspicious transactions from financial institutions, other persons and entities, analyzes them and disseminates the resulting intelligence to local law enforcement agencies and foreign FIUs to combat money laundering and financing of terrorism is doing its job, and that is what we will insist on, that it be properly strengthened to do that. The reporting, analysis and dissemination are the three main areas, Madam Vice-President, that are the responsibilities of any FIU and all of this must happen if we are ever to become an international business and financial centre. I thank you very much. [*Desk thumping*]

Sen. Terrence Deyalsingh: Thank you, Madam Vice-President, for allowing me the opportunity to join the debate on the Financial Intelligence Unit of Trinidad and Tobago (Amdt.) (No. 2) Bill, 2011. We have been searching since Sen. Dr. Balgobin's contribution for a definition of a suspicious transaction, and Sen. King raised some descriptive words, I think based on sleight of hand, from different countries, hypothesis or intuition.

Madam Vice-President, my intuition leads me to hypothesize that the Caribbean Airlines transaction is a sleight of hand to take the Prime Minister and her party to Brazil. [*Desk thumping*] Because there is no way on earth that that had not been classified as a suspicious transaction. They took a plane, a national asset, State owned company, to take 40 people to Brazil, and then come and obfuscate the matter and talk about wet leasing. That is a suspicious transaction.

4.10 p.m.

What about the opportunity cost lost by that airplane making its normal runs? A 140-seater plane to transport 40 people; if ever there was a description of a suspicious transaction, that is it.

Sen. Panday: Hon. Senator, do you think we should have bought a Bombardier jet instead? [*Desk thumping*]

Sen. T. Deyalsingh: Is it a point of order? Madam Vice-President, when we debated this Bill in February 2009, I brought up the issue of membership in the Egmont Group and I was assured at that time by, I think, Sen. The Hon. Panday, that there were 20 stages Trinidad and Tobago had to go through for membership.

Sen. The Hon. Panday can correct me. I was told at that time that, when we demitted office, certain of those steps had taken place and, in short order, the remaining steps for membership into the Egmont Group would have been completed. I am hearing here today from Sen. The Hon. King that from February to now those steps have not been taken. We did not create that. That goes for membership into the Egmont Group.

Madam Vice-President, Sen. The Hon. Brig. Sandy spoke, in rebutting Sen. Al-Rawi, about strategic manoeuvres and tactical assaults and said that Sen. Al-Rawi got his strategy and tactics “wrongside”. Both Sen. Al-Rawi and I have been pleading, begging and cajoling this Government to produce something akin to a legislative agenda. I raise the issue of a legislative agenda again because when this honourable Senate, a few Tuesdays ago, was plunged into a state of chaos when we did not know what to debate, one of the headlines in the newspaper was “Senate debate what to debate”.

We were told on the Monday prior to that Tuesday, less than 24 hours’ notice, that we were going to debate a joint select committee report on Standing Orders. That was deemed so important to put on to the legislative agenda, but then when we reached here the Tuesday and the Senate was plunged into chaos, it suddenly evaporated from the legislative agenda. That is another suspicious transaction.

Right now, this Senate is starting debate on an amendment to a Bill we debated in February because the Government would not listen to us that the appointment of Susan François was wrong. We told them so. We told them that the appointment of Nizam Mohammed was wrong. They did not listen. We told them the appointment of Lightman into the Clico affair was wrong. They did not listen. One of the main reasons they would not say that we are here today is for that clause, clause 18, to validate the wrongdoings of the illegally appointed head of this Financial Intelligence Unit. That is one of the main reasons we are here today.

If we had a legislative agenda, we would have known where the FIU fits into the legislative thinking of the Government. We are starting debate on FIU today, which we have to finish tonight; but we have hanging in the air the anti-gang, which has not been completed. We have hanging in the air data protection, which has not been completed. We have hanging in the air bail amendment; not completed. We were told last Tuesday that we would go into committee today for some of those Bills because they were waiting for the hon. Attorney General to come back.

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We are here today and we are not tackling the committee stage of those Bills. This is what I mean, Madam Vice-President, when I say we need a legislative agenda. In that legislative agenda, we can deal with things like legal aid, which the Chairman of the Legal Aid Commission, Mr. Chaitram Sinanan—I mention it here that he said, in October 2010, that legislation would be coming very soon to have legal aid available 24 hours a day; seven days a week. Six months later, no legislative movement on that. We need a legislative agenda.

Coming back to Sen. The Hon. Brig. Sandy's rebuttal of Sen. Al-Rawi, talking about strategy and tactics, you see, the legislative agenda is strategy; your overall picture of where you want to go in the long term. Bills are your tactics. All this Government has been doing from whatever day it assumed office to now is bringing Bills—tactics. We can see absolutely no coherent strategy as to where the legislation is taking this country. That is piecemeal; that is a quilt; that is patchwork because crime is number one, but we have not finished anti-gang. We talk about cybercrimes and so on, but we have not finished data protection, electronic transfer and we are starting a new Bill, FIU. Why? Because they did not listen in February 2011 about the illegal appointment of Susan François.

The issue before us in this Bill raises in my mind: what form is this Financial Intelligence Unit meant to take? My research tells me there are several forms of FIUs. There is the administrative form, the judicial model form, the law enforcement form, the administrative model and then, if you want, to hybridize, we are getting the impression that we are going for the administrative model. I do not know if that is correct. It is the impression I am getting, but the way the Attorney General piloted the Bill—and I will come to it when I go to the Bill clause by clause—you start to get the feeling that we are moving from an administrative model to a law enforcement hybrid model.

I am concerned because unless we are clear about what type of model we want and need we will not know where to house it, how to equip it, how to man it, how to strategize it and how to implement it. There is total confusion reigning over what is the type of model. The type of model I am seeing in the Bill is not an administrative model. The type of model I hear the hon. Attorney General speaking about is not an administrative model, and I will come to that.

When the hon. Attorney General piloted the Bill, he made a comment. I wrote it down. He said:

“Where this unit is housed is a matter of prerogative for the Government of the day.”

I respectfully take a different view because I went on to the website of the Egmont Group. I looked in detail at how they have their different models categorized and, in reading their descriptions of the models, they actually prescribe to signatories that if it is an administrative model, it should be housed in finance; if it is a law enforcement model, it should be housed other places. So, it is not entirely correct to say that where this unit is housed is the prerogative of the Government.

The truth shines a very harsh light. When Sen. Mariano Browne started to shine the light of truth, the Government side became discombobulated, disconcerted and deflated. It is the first time in this honourable Senate I actually saw Sen. the Hon. Brig. Sandy descend to crosstalk. In his contribution he may have been factually correct that a Minister of National Security did not attend the meetings. He may have been; I do not know.

Sen. Hinds: No.

Sen. T. Deyalsingh: But when Sen. Browne rebutted and cleared the air and showed where four Ministers attended meetings, they became discombobulated. Sen. The Hon. Brig. Sandy did not tell an untruth, but he did not state the whole truth and when the light of truth was shone, they became discombobulated.

When the light of truth was shone about the firing of people who could have transitioned FIU from the last administration to this administration, they were discombobulated. You cut the thing and then you expect transitioning. That was the second major truth to be shone on these proceedings by Sen. Mariano Browne and we are grateful for his presence today.

Madam Vice-President, in my contribution on the then FIU Bill in February 2011, I made the point—and I am not a lawyer, but English jurisprudence to common law they have come up with very nice sayings. The English are wordsmiths and when you read the judgments of some of the most learned law lords that stand the test of time and become sayings in their own right, they tell you that you do not always need a lawyer to understand the English language.

Some of those sayings are: what would an officious bystander do? I forgot the law lord who coined that phrase. He was adjudicating on a contract law case. He was talking about how we imply terms to a contract, which are not expressly there. He said: simple! What would an officious bystander think or say should be included? What would a rational person say?

Sen. Al-Rawi: Lord Diplock.

Sen. T. Deyalsingh: No, it was not Diplock.

Sen. Al-Rawi: Yes. It was Diplock

Sen. T. Deyalsingh: Lord Diplock. What would an officious bystander say; and a regular man in the street on the Clapham omnibus? What would a normal person think? When I debated this FIU Bill in February 2009 and you look at the FIU and the clause which dealt with the appointment of the director; when you look at the Constitution under the Public Service Commission, any officious bystander, anybody on the Clapham omnibus could have reasoned, could have deduced—*[Interruption]*—the maxi-taxi going from Matelot to wherever, that that position was a public service position.

The hon. Attorney General did not have to seek the legal advice of former Attorney General Martineau. We told him so free of charge. Dr. Rowley told him so free of charge. I told him so free of charge. It fell on deaf ears. They do not listen. That is one of the main reasons we are back here when we could have been completing other Bills like the Anti-Gang Bill, the Bail (Amdt.) Bill, like data protection, and moving on with the legislative agenda. But we have been brought back here today because the hon. Attorney General, apparently, does not and cannot put the Bill on one side; the Constitution on one side and make a connection like the gentleman on the omnibus in Clapham. I could.

4.25 p.m.

Madam Vice-President, when this Bill was first being piloted in February 2011, we had serious reservations about the way in which Miss Susan Francois was going to be appointed. The hon. Attorney General stood in this Chamber and said that he personally called the referees listed on Susan Francois's résumé. What right then did the hon. Attorney General have in calling the referees of Susan Francois when that appointment—when the FIU was to be housed under the Ministry of Finance?

It leads me to think, as my colleague was saying in the Lower House, that this was an example of empire building, that the hon. Attorney General may have known then that he wanted the FIU under the AGs office. That is why he did. Susan Francois never applied for the job. Let us not forget that. You had other applicants. Susan Francois was handpicked by the hon. Attorney General. He ignored the Public Service Commission, he ignored everyone who told him that that appointment was a public appointment which needed to go through the PSC and the SRC. That is why you need this validation clause here today.

Madam Vice-President, that faux pas by the hon. Attorney General leads me to wonder, coming on the heels of the Lightman affair, coming on the heels of the letterheads of the Office of the Attorney General being used for nefarious activities—I think somebody got hold of the hon. Attorney General's letterhead, wrote a letter to ask the police service to withdraw their investigation into IMPACS. Is that correct? A copy of the letter was printed in the daily newspaper. Does the hon. Attorney General who cannot manage his letterheads want to manage the FIU? That is the man who wants to manage the FIU? He cannot manage his letterheads. [*Crosstalk*]

Sen. Al-Rawi: Suspicious transaction.

Sen. T. Deyalsingh: Suspicious transaction! He could not Google Lightman to find out that he did work for Lawrence Duprey, as we did? And he wants to manage FIU. He did not know that the PSC is the responsible body for appointing a public officer. And he wants to manage the FIU. That is our Attorney General. That faux pas is no worse than sending a pipe fitter to be our commissioner to Jamaica. [*Desk thumping*] They did not even send a licensed plumber with a certificate, they sent a pipe fitter to be an ambassador to a Caricom neighbour. [*Crosstalk*]

Sen. Al-Rawi: Credentials revoked.

Sen. T. Deyalsingh: Credentials revoked. Sent him back here, shipped him back on the first banana boat. [*Crosstalk*]

Madam Vice-President, when you go to the Bill, and I speak now particularly on page 4, clause 7, the Attorney General says there was much controversy and we hear the word “ambiguity” about the appointment of the director of the FIU. There was no ambiguity. It was clear as I have said before. That is why we are here. [*Interruption*] Madam Vice-President, I think I will allow you to adjourn for tea at this point in time or shall I go on? [*Crosstalk*] I will just go on.

Again on clause 7, we talk about the appointment of the director and the deputy director and such other officers required in the performance of his functions. And now they are saying the Public Service Commission is the authority to appoint those people when they were told this in February 2009, free of charge. [*Interruption*]

Sen. Al-Rawi: That was clear. Section 3 was clear all the time.

Sen. T. Deyalsingh: Again, what would the officious bystander have said in reading the Act and reading the Constitution? It was very, very clear. Thank you, Madam Vice-President.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Vice-President: Hon. Senators, Sen. Deyalsingh was on his legs. By my calculation you have 23 minutes remaining. Continue.

Sen. T. Deyalsingh: Thank you very much, Madam Vice-President, as I welcome everyone back from the tea break. Before the tea break, I was just wrapping up on clause 7 which dealt with the supposed ambiguity in the appointment of the director and deputy director.

Madam Vice-President, the supposed ambiguity has finally been cleared up by a letter from Mr. Thomas of the Public Service Commission. As you would know, those letters going back and forth between the office of the Leader of the Opposition, the hon. Dr. Keith Rowley and the Chairman of the commission have been well reported. It is not my intention to read verbatim from those letters, but at the end of the day the Public Service Commission was able to finally declare that those posts, do actually fall under their ambit and that they are the competent body. I would just read the last paragraph of that letter dated—I would not go through the three or four letters predating. This is coming for the Chairman of the Public Service Commission, Mr. Thomas, to Dr. Keith Rowley the Leader of the Opposition. It says:

I write with reference to your letters of February 21st and March 15, 2011, on the matter of the appointment of the Director of the FIU as prescribed in section 3.2 of the Financial Intelligence Unit Act, No. 11 of 2009.

I am now in receipt of advice from Senior Counsel which states that the offices of Director and Deputy Director of the Financial Intelligence Unit are public offices and as such the Public Service Commission is the competent authority to make appointments to these offices.

Clear, unambiguous—we told you so. What has had to happen subsequent to that, Madam Vice-President, is a press release coming out of the Public Service Commission calling for the filling of the offices of the director and deputy director Financial Intelligence Unit, Ministry of Finance.

This could have been done in February, Madam Vice-President, two to three months ago. We could have saved time. We would not have been in the position we are in today, where we have the threat of sanctions against us, if they had listened. And I go on to read the press release:

The Public Service Commission has been advised by Senior Counsel that the offices of Director and Deputy Director Financial Intelligence Unit, Ministry of Finance are public offices and that the Commission is the competent authority to make appointment to these offices.

Then they are inviting people and the whole process is going to go on.

Madam Vice-President, with that done, I now turn to page 5 of the amendment, Part II clause 10. The hon. Attorney General, both when he piloted this Bill in February of 2011 and again today, he referred to certain types of businesses which he says are under the radar of FIUs around the world and under the radar for FIU in Trinidad. He listed businesses like the jewellery business, he talked about an illegitimate jewellery business. I do not know what that really means, an illegitimate jeweller. I do not know if it is a man who makes bad jewellery. What is an illegitimate jeweller?

5.05 p.m.

Madam Vice-President, he singled out jewellers, car dealers and so on. In mentioning car dealers, is he referring to companies like Neal and Massy, Ansa McAL, Southern Sales? I do not know. He specifically mentioned car dealers today. Is he talking about these types of car companies or is he talking about car companies that are supposedly getting contracts to repair police vehicles?

I read from the Friday *TnT Mirror*:

“Talk making the rounds among some Congress of the People...officials is how a Bamboo Settlement foreign used car dealer has landed a contract to repair police vehicles. [*Desk thumping*]

The Vehicle Management Corporation of Trinidad and Tobago...is responsible for the maintenance of all police vehicles.

If the used car dealer did in fact get a contract, did he tender for the job or ‘pulled a string’ for the work, some are asking.”

I do not know. The hon. Attorney General himself singled out car dealers. Is it that the FIU investigated car dealers like this one? I do not know who the particular dealer is. [*Interruption*]

Sen. Hinds: Inshan Ishmael.

Sen. T. Deyalsingh: I do not know. We could speculate how much we want. Who is this car dealer, friendly to the Congress of the People, getting the contract to service police vehicles? Is this type of car dealership under the radar, on the radar, above the radar, inside the radar of the FIU?

Sen. Hinds: You just have to ask why he is so quiet these days.

Sen. T. Deyalsingh: What is going on with these types of car dealers? I do not know if it is the reputable, normal car dealers like the Neal and Massies, or are we talking about those types of car dealers who, it is purported, would be receiving contracts from the Government to fix police vehicles? I just do not understand where the Government is going with this.

This headline:

“Car dealer gets contract to repair police vehicles?”—is under a bigger screaming headline—“Nepotism at PTSC”—where it is claimed that the hon. Attorney General’s brother “get a big wuk at PTSC”.

Devant Maharaj used to be the one crying shame on the PNM for nepotism, but I suppose what goes around comes around. [*Interruption*]

Sen. Hinds: Whose brother?

Sen. T. Deyalsingh: It is claiming the hon. Attorney General. This is the Friday *TnT Mirror* of April 22, 2011, page 3.

Sen. Panday: “Yuh sure is not April de 1st?”

Sen. T. Deyalsingh: No, Sir, “look it here”:

“Nepotism at PTSC”

“The corruption buster, look him there.”

Sen. Hinds: “Is his brother get de contract?”

Sen. T. Deyalsingh: No, no, no; a brother of a senior Government official, who the Prime Minister recently said was involved in another bacchanal with the Integrity Commission, I think, but we will not go there.

Madam Vice-President, I now turn to page 7 of the Bill under the validation clauses. I am warning this honourable Senate that when the committee stage reaches on clause 18—because clause 18 and all its components are troublesome clauses. About a month and a half ago, when I rose at approximately 1.35 on a Wednesday morning in a 20/20 debate, I made the point then, and I make it again now, that the committee stage, in my humble opinion, is probably the most important time that we spend in this Senate. It is then that we dot the i’s, cross the t’s, make corrections and make sure that the intent of the Bill is translated into the Act. But I have noticed that whenever we go into committee stage in this honourable House, after a long day’s sitting, that when we make recommendations the Government Ministers are tired and they get antsy, they get testy and they are not receptive to changes being made.

Clause 18 is going to take up considerable time in committee stage; not because we want to be difficult, but because we want to pass a good law. Clause 18 deals with all listed business and so on. Sen. Dr. Balgobin made the point about not adding another layer of bureaucracy. It was spoken about, and then Sen. Mariano Browne spoke mainly about the necessity for it.

Coming from the private sector as I do, I am always suspicious of extra bureaucracy; it really does limit competitiveness. I want to suggest that if all listed businesses and non-regulated financial institutions shall register with the FIU, that some mechanism, whether legislative or not, be looked at to integrate the Act that controls Value Added Tax and Inland Revenue, so that information already in those silos that Sen. Browne spoke about, we could deconstruct those silos and get the information, instead of asking businesses to jump through one more hoop. I think that makes eminent sense.

The purpose of this is to ask businesses to register. Illegal businesses are not going to register, so you are not going to trap any illegal activity. They are not going to come to the FIU and say, "Here, I am running an illegal jewellery shop, could I please register with the FIU?" It is not going to happen, but I know what the purpose of that clause is. I am just suggesting that, as we move forward, that any barriers to competitiveness should be removed. Anything that could make business easier should be done, so that the private sector could start to drive the economy.

Madam Vice-President, as I am on clause 7, Sen. Browne referred to a discussion he had with one of his colleagues. We were talking earlier about the Al Capone escapades and how the United States was able to get him. I was just opining with him that I do not know if the Government—the hon. Attorney General is not here, neither is Sen. Panday, but that is all right—he is behind the Chair, sorry.

I was just opining that this country could probably take a look at what is commonly referred to in the United States as the RICO Act, the Racketeer Influenced and Corruption Organizations Act, the acronym being RICO. That Act covers a whole range of federal and State crimes. The punishment for those crimes is very serious. In addition to fines, the real deterrent is the 20-year imprisonment term. That is how seriously they take these types of crimes.

Many groups and individuals have been prosecuted under the RICO Act; the Hells Angels group; the Hells Angels motorcycle gang has been prosecuted. One of the first persons to be prosecuted under the financial meltdown, way before

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2007, was somebody by the name of Michael Milken. I do not know if hon. Senators might remember that name. He was prosecuted under the RICO Act. This was over 10 years ago, and it worked. You had owners of major league baseball teams being prosecuted under the RICO Act, not to mention the Gambino crime family from New York. I am just suggesting that all these Bills that we are passing: the FIU, the Anti-Money Laundering Bill, and so on, at the end of the day, if you really want to get people, tax evasion is one of the better ways to get them. We could probably look at the RICO Act in the future, as part of the legislative agenda, to really trap people who may fall outside of these things.

At the start of my contribution, I made the point that I was unsure as to the direction the hon. Attorney General was taking us with this Bill. Are we following the administrative model? Are we following the law enforcement model? Are we following a hybrid model? In researching for today's debate, I looked at what criteria the different models had to fulfil. If you would just allow me, Madam Vice-President, the first one is the judicial model, which we have not discussed at all, but that model does exist. I am reading from the Egmont Group website:

“The Judicial Model is established within the judicial branch of the government wherein ‘disclosures’ of suspicious financial activity are received by the investigating agencies of a country from its financial sector such that the judiciary powers can be brought into play...”

That is not what we are looking at. I am just saying this is one of the models.

The second model is the law enforcement model, which I think this Bill is trying to lead us down, because I do not know what the plan is. Is it an administrative model or law enforcement model? The law enforcement model is used in countries like Germany, Ireland, UK and Sweden. What are the characteristics? This model:

“...implements anti-money laundering measures alongside already existing law enforcement systems, supporting the efforts of multiple law enforcement or judicial authorities with concurrent or sometimes competing jurisdictional authority to investigate money laundering.”

I will leave that hanging there for now. I will come back to it shortly. I just pegged that there.

Madam Vice-President:

“The administrative model”—which I think is the one the Government is trying to put forward—“is a centralized, independent, administrative authority, which receives and processes information from the financial sector”—which is what

I think this Bill purports to do—“and transmits disclosures to judicial or law enforcement authorities for prosecution. It functions as a ‘buffer’ between the financial and the law enforcement communities.”

The administrative model is used in places like France, Australia, Belgium, Canada and the United States.

I go back to the law enforcement model which I pegged in the air earlier. I have described the administrative model, and now I go back to the Bill. Clause 18E—this is where I have the difficulty and this is where some ambiguity comes in for the first time:

“The FIU shall effectively monitor non-regulated financial institutions and listed businesses for which it is the Supervisory Authority and shall take the necessary measures to secure compliance with this Act and the following written laws.”—and it listed five laws:

- (a) the Proceeds of Crime Act;
- (b) the Anti-Terrorism Act;
- (c) the Financial Obligations Regulations, 2010;
- (d) the Financial Intelligence Unit of Trinidad and Tobago Regulations, 2011;
- (e) the regulations made under the Anti-Terrorism Act;...”

It leads me, and any reasonable person, the officious bystander, the gentleman in the maxi-taxi, to conclude that what is purported in section 18E is, in fact, a law enforcement model.

If that is so, then what we have here is not an administrative model, not a law enforcement model, but a hybrid model. If it is a hybrid model, let us come out and say so, that it is a hybrid model. According to the Egmont Group:

“The Hybrid Model serves as a disclosure intermediary and a link to both judicial or law enforcement authorities. It combines elements of at least two of the FIU models.”

This is what I am asking: What is the plan for this FIU, is it administrative, is it law enforcement, is it a hybrid? Tell us; that is all.

5.20 p.m.

Because you see, if it is purely administrative, it needs to be housed under the Minister of Finance. If it is meant to be law enforcement, it should be under the Attorney General, and I think this is what the Attorney General had in mind way back in February when he took it upon himself to hire Susan Francois. He was thinking way back then that this should reside under the Office of the Attorney General. However, in the Lower House good sense prevailed, the opinions and views of the Opposition were listened to, and it is now safely housed under the Minister of Finance—at least he could control his letterheads.

Madam Vice-President, as I wrap up, I want to reiterate that clause 18 is a troublesome clause, we need to pause and look at it. As I wrap up, Madam Vice-President, the FIU needs our support—there is no doubt about it—but there are still some troubling aspects and I hope in committee stage when we make our recommendations they are received so that we do not have to back here in June to fix it again. Madam Vice-President, I thank you.

Sen. Corinne Baptiste-Mc Knight: I thank you, Madam Vice-President. Madam Vice-President, I consider it a privilege to be allowed to make a few comments on this Bill, and seeing that I agree with quite a few of the general comments made on the Bill, I will address only the paper before us.

And I would like to start with the Explanatory Note which, really and truly, ought to explain what is in the Bill, and I fully understand why there are discrepancies because, as usual, the Explanatory Note is never adjusted when the Bill is adjusted. So that I would like to suggest that instead of putting the caption as amended in the House of Representatives at the top of the Explanatory Note, you put it at the top of the Bill, so it is a little less confusing for those of us who read the whole thing.

I would like to go straight to clause 5(b), where it inserts “financing of terrorism” and it states that this has the meaning assigned to it in the Anti-Terrorism Act, and we are pointed to Chap. 12:07, but, Madam Vice-President, in spite of my best efforts I have not been able to find any definition or indeed mention of financing of terrorism in this Anti-Terrorism Act. So that I would like to suggest that a definition be found for it that suits this Bill since this one definitely does not have a definition.

I would like to move on to clause 11—which I think was mentioned by my colleague Sen. Dr. Balgobin—where mention is made of financial institutions and I am pretty sure that this is an oversight because the financial institutions are not

monitored by the FIU but by the Central Bank. So this must be a reference to the non-regulated financial institutions, and the same type of problem arises in clause 15 at 18B and 18C. 18B states that;

“All listed businesses and non-regulated financial institutions shall register with the FIU...”

But 18C says:

“The FIU shall establish and maintain a register of all listed businesses...”

Now, nowhere else in this Bill is there mention of the register including—or a separate register that would be dedicated to the non-regulated financial institutions, so that I think that needs to be added there. Without the experience of running a business, I really did wonder about the need to expand the time frame from five to seven days in 18D but Sen. Dr. Balgobin dealt with that. So that I would like to go on to 18E(2) where it says that the publication:

“... shall be in the *Gazette* and at least one newspaper.”

I would like to point out, that where there is a requirement for publication in the original legislation, it is for the *Gazette* and two newspapers, and I think that it makes sense that there be some consistency throughout the one piece of legislation so that I would really like to see that read “two” instead.

And on 18F, at (a)(i) it talks about the ability to inspect or take documents or make copies. Now, bearing in mind that we are supposed to be going digital, I am wondering whether documents would in fact be what you need to have here, rather than data which, according to the appropriate legislation, would include documents because I rather suspect that a lot of the information to which reference would be made here would be on computers and computer hardware. So that reference to documents should be looked at and an appropriate word be found for those; and that occurs again in (b)(2)(a) and then again in the oath that has to be taken.

Now, in the oath of office where it talks about “I will treat all documents”, I think that what that needs is “all information” or “all data” because it is going to be more than just documents.

Finally, I come to the validation clause 20. Now, in the validation and the immunity from legal proceedings, both of these are very precise in that they refer to the period prior to the coming into operation of this Act. In 20, “Saving of Evidence”, this reference to “prior to the coming into operation of this Act” is missing, and I would not like to be a party to saving evidence from a period that is totally imprecise.

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Given the time and the fact that I think we have other things to do, I thank you, Madam Vice-President.

Sen. Prof. Patrick Watson: Madam Vice-President, thanks very much for allowing me to make a contribution to this debate, and I too will not detain this House for a very long time. I want to say that I think and I am happy to hear it coming from most—well all—of the Senators who spoke that there is general support for this Bill and I am sure that it will be passed, and let us hope that it is unanimously passed as we have developed a habit of doing in this Senate.

5.30 p.m.

I want to say that it is a Bill that is worthy of support in its own right. It is not only because we could be blacklisted if the amendments are not passed, but it is worthy of support in its own right. Blacklisting, of course, is not a good thing for some of the reasons that were mentioned by some of the hon. Senators, but I do believe and I want to take a slight issue with something Sen. Dr. Balgobin said. I do not think he meant it in this regard, but I am a bit worried that it may pass like this, in the business community in particular, where he indicated that some of the inconveniences involved with the business community would be a bit heavy because there is no value added. I think those were the words that he used.

My own feeling is that that is not true and if the business community feels that way, I think it is a bit shortsighted. Precisely in fact, because for some of the reasons that my own colleagues may, and in particular Sen. Mariano Browne, who I welcome to the Senate, when he said—he used a word that I do not like, but I know people understand—this is a global village, and what happens elsewhere, and in particular, if it happens because of illegal activity, if it happens because of money laundering, we could feel the effect of it wherever in the world it happens and there is no reason why we should encourage that here as well.

I am therefore concerned about the value added, and I am appealing to the business community not to view it in that way, because the value added is in keeping the whole thing together and if we have a problem that is societal and not related to any one business, we all suffer, as indeed we saw happened not only here in the Caribbean but elsewhere in the crisis of 2008/2009. We do not wish to see difficulties develop elsewhere that by means of contagion spread easily to us or start here and spread easily to the rest of the Caribbean and things like that. In that sense I am happy to hear that other Senators might not have used my language but, that is in essence what they were saying.

I want to say a few things about regulation in general and the specific regulatory framework that we are looking at here. I think if it is one thing that we have learnt from the crisis of 2008 is the need for perhaps more rather than less regulation. I am aware that sometimes this may appear bureaucratic and I do support the view that was raised on the other side. I think it was Sen. Deyalsingh, when he indicated that I think businesses and myself as an individual, I do not like to be filling out forms over and over again asking me the same thing.

I remember a few years ago—in fact this is a bit of an aside—when there was talk about having, for instance, one identity for every person. For instance, I am born, I get a number or some index of being alive, and it is something that appears on my passport, on my birth certificate; it appears everywhere and it is a number unique to me and would never be duplicated by anybody else and, in a sense, that that information is made available to everybody, I know there is something big brotherish about it and some of us may not like that idea, but believe me, I like it very much because I do not like the inconveniences. It is not that I am supporting, in any way, a big brother regime, but I like the idea of facilitating life by not having at all times to fill these things out.

Once again, I got my Integrity Commission Report. I suspect you got one too, Madam Vice-President, with a deadline for May 30. So here we go again filling it out and I hope that this time around it would be easy for me. But the case for regulation is extremely important, especially in the case of financial institutions, no matter if they are non-regulated in the way. In fact, the specific reference that the Attorney General made was to credit unions and I am extremely happy to hear that and I think Sen. Corinne Baptiste-Mc Knight mentioned that those who are regulated by the Central Bank do not fall under this Act and that is indeed true. Of course, as you may very well know, the credit unions are about—the legislation is coming when they would be put under the regulation and they in that sense may then cease to be covered by the current regulation.

I am not in any way pre-empting that, but I am just saying that is a very likely possibility. But in the meanwhile it is very, very important that they do fall under the umbrella of this new legislation, because the way it is now, financial institutions are interconnected all over and there are credit unions, as you may know, which have the name “credit union” but they issue credit cards, they issue ATMs and so on—I am sorry, they have ATMs, you could go and withdraw money from them on a regular basis, and that is a trend that is developing more and more. It is not new, not by any stretch of the imagination and that they should be regulated has long been recognized.

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The fact that they are not regulated in the way that is intended by the amendment to this Bill requires that they be put under this Bill, because it is important to have confidence in every financial institution in this country, formal or informal. We may not go so far as to put the “sou sou”, although we may want to think about it, but certainly, the officially organized and registered credit unions have every right, and I think we are very much concerned about making sure that they do not become a runaway horse.

Madam Vice-President, many assertions have been made about patchwork, quilts and so on. The Attorney General was the first to raise it and it was raised again by the other side, I think Sen. Browne raised it and I do not think he raised it in a bad way and I certainly do not want it to be viewed in a bad way. I want to support the point that I am generally getting, that, given the way things are developing, we are in many respects in uncharted waters in these regards.

It is true that the FATF has been in existence for some time now and we are getting there, but generally, even in the places where it has become something entrenched, we are fundamentally in uncharted waters in trying to deal with this kind of issue. As such, issues would arise from day to day and from time to time and it would be patchwork. I already mentioned the fact that in our own context the credit unions are likely to fall under the ambit of the Central Bank, not only in Trinidad and Tobago I am sure, but elsewhere. We are likely to see changes in this regard.

We have been pushing this thing and we have been told since October 2009, whatever the reasons for the delay, whatever the reasons for it not coming into being now, it is essential, not only because we could be blacklisted otherwise for the very integrity of the financial system as a whole that we want to protect. Now is the time to get on with the business and now is the time to pass the relevant legislation.

I think I heard the expression that we are all in this together, if there is a failure, if we are blacklisted as a consequence of not passing this legislation in time and so on, it is very likely that it is not only the people on this side of the Senate will suffer. That is not true at all and it has been indicated it is not only likely to affect what happens in the arena of finance, people who know that you are blacklisted would probably not want to deal with you for purposes of investing in various things and so on.

Let me get back to the fundamental point of regulation and the word “implementation” arose, and I want to say a few things about it and I want to speak about section 18, which in my view, was the most important section that was coming in there. I understand the concern of Sen. Deyalsingh to make sure that it

is properly done and I do agree. I, myself, did not find any fault with the wording, but he said that he is not a lawyer but I know he is training to be a lawyer and has done a lot of things so he would probably see things that I am not—

Sen. Panday: A bush lawyer. [*Laughter*]

Sen. Prof. P. Watson: This thing is couched so much in the language of legalese that I see the spirit of it more than the law of it and I am willing to support the spirit of it. Whatever happens in committee stage to change the thing, once it does not change the spirit I would not have a problem.

I promise not to keep you too long because I do not want us to be too tired so when that thing comes we would agree to nearly anything.

When we think about regulation and we think, for instance, about the Clico fiasco, I am not of the view it was only the absence of regulation that was there. I, in fact, sometimes wonder if regulation was the issue at all in the sense of the framework not being present. I do believe that we often put things in place and we do not implement.

Madam Vice-President, perhaps it is a good thing, but I have never been stopped to have my breath tested by the breathalyzer. I am not saying that in any way that I would have been found to be in infringement [*Interruption*] but at the same time I hear talk about it and I saw a senior member of the police service saying that it was going to be out on the Easter weekend. I did not see any. I am not saying that it was not there.

I am often worried about us passing the relevant legislation which is good, it is a necessary condition for getting things done, but it is much more important in my view that we give it teeth. We must put the thing into action. I remain convinced that some of the things that have befallen us, like, for instance, what happened in the financial services sector in this country and elsewhere, had to do with proper, good regulatory frameworks not being fully implemented.

I do believe that this one must not suffer, and in fact, none that pass under this Parliament, where we are the Government, I would not like that to be the case at all. So that we pass the legislation and then it becomes a lovely piece of legislation that somebody may wish to imitate elsewhere in the knowledge or not in the knowledge, perhaps, that although it is pretty that we are not implementing it here and I am looking forward to implementation.

It is section 18, in fact, where I find we have a lot of the thing. I mean, I hear Sen. Deyalsingh's concern about whether it is a hybrid or whether it is administrative. I, myself, think that is purely semantic, but there must be good reason for someone who is a student of law making these kinds of differences. The important thing to

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me is that the various pieces, the various sectors that make up these amendments, that they are valid and that they are useful for what we hope to accomplish and I think it is relatively clear that we want to—[*Interruption*]. Thank you—remember that, so section 18 is extremely important. And section 18D, E and F, in my view, are all important, and I wonder what is, a name, whether it is hybrid, whether it is administrative or not, that these things are going to be extremely important.

If I should read some of the proposed amendments, I am not going to go through 18E because it was already alluded to. Some of the points that were raised—in fact, I think 18F is a more interesting one and where it says for instance:

“(1) In order to secure compliance with the written laws...the FIU may take any of the following actions:

(a) enter into the business premises of a non-regulated financial institution”—et cetera—“during working hours and with the consent of the owner or occupier of such premises in order to-

(i) inspect—

(iii) observe”— and so on;

“(b) require any person on the premises to provide an explanation on any such information.

Where a non-regulated financial institution or listed business refuses to give consent under subsection (1), a police officer above the rank of Sergeant”—I am not sure why that is necessary, but I would not argue the point—“may apply for a warrant to enter the premises referred to...”—and so on.

These are things, in my view, to which we have to give implementation. We have to be careful not to just put the legislation in place. And someone, I think, from the Independent Bench, mentioned—I think it was Sen. Ramkhelawan—that in order to implement these things properly because they do not happen by accident, the relevant amount of resources must be put in place. That is not in the legislation, but if you do not put the resources in place, this is what is going to happen.

5.45 p.m.

So I am convinced that on this side that is exactly what we plan to do. I want to assure the Senators on the other side in particular, those who raised the issue, that this is a matter that is going to be properly resourced, as is everything that we

are going to do, coming out of this side, otherwise we are sure that there will be improper implementation. [*Desk thumping*] By the way, I should tell Sen. Deyalsingh, that it is quite easy to clone letterheads; that is not a big thing to do.

I want to say one last thing about gathering information and looking for—the way people who are intent on breaking the law look for novel ways of dealing with any legislation and bypassing it. One of the issues with regulation and any regulatory framework is that it is almost always behind time. I think I said that in this Senate because we usually respond to what is on the ground already; we try to anticipate but things—people are paid much more than we legislators are paid to find loopholes in the legislation. It was a point that was made, in fact, in the United States of America when someone was told that the people who work in the bank as the regulators, they are paid X, but people who work with companies like the big financing companies are paid 5X to find ways of defeating the purpose of the legislation.

You will not—you could not imagine how imaginative and how innovative people could get. They should probably be serving on our innovative council and so on. For instance, I will give an illustration of this, it happened in the case of Jamaica which as you know depends on a lot of remittances. Everybody knows that Jamaica depends a lot on remittances. When the crisis broke in 2008 and 2009 we all predicted that remittances would suffer. Lo and behold, remittances did not suffer as much as we had anticipated. One of the suggestions behind this by some of my colleagues who study it in Mona, was that a lot of these remittances were, in fact, money laundering activity in the sense of people earning the funds outside by selling illegal stuff. I suspect marijuana, which again one of my colleagues seems to think is the biggest foreign exchange earner in Jamaica—[*Interruption*]

Sen. Hinds: Overpriced tickets and international football.

Sen. Prof. P. Watson: Well, whatever. This then comes back in the form of remittances. Sometimes ghost families, people who just have an address, they are able to send remittances back. So if we want to be serious about dealing with these issues, we have to be vigilant and part of the function of the Financial Intelligence Unit is to make sure that people are on the lookout for creative actions to deal with that.

So, Madam Vice-President, I continue to say that brevity is the soul of wit. I am not going to continue and I do want to go home early this evening. I want to thank you for allowing me and to say how heartened I am by the support for the amendments that I have been seeing, notwithstanding some of the concerns, and I do look forward to having it passed into legislation.

Thank you very much.

Sen. Shamfa Cudjoe: Thank you Madam Vice-President, thank you colleagues. Madam Vice-President, I am privileged to be able to make a very short contribution to this debate—[*Interruption*]

Sen. Panday: You! [*Laughter*] I hope you do not fool me.

Sen. S. Cudjoe: I would not even be five minutes. Before I start my contribution I just want to say Happy Easter to everybody celebrating Easter [*Desk thumping*] right now, especially to my fellow Tobagonians who are enjoying the Goat Race in Buccoo in Tobago in our new facility courtesy the Tobago House of Assembly of which we are very proud. [*Desk thumping*]

Madam Vice-President, let me get into the meat of the matter. I am going to go straight to the issue today. I was not prepared to contribute. I came without the intention to contribute today, but I was a little moved—I was invited to indulge by Sen. King and Sen. Brig. Sandy. Madam Vice-President, as stated by some of the other Senators today, I am a bit embarrassed by the country having to make these moves today, and having to come and do a marathon session to pass legislation to prevent us from being placed on the negative list or having serious sanctions instituted against us. It has happened before with the PNM administration and now with the People's Partnership. I think that—in anything we do we should try to learn from each other.

We saw this mistake happen under the People's National Movement and now it is happening again. I think this is something we have to break. We should not have to wait for somebody to pull out their belt or threaten to penalize us for us to get moving and put our country in order. So I hope that this does not happen again and I think it is the same thing for the human trafficking legislation we are about to deal with later on today. We cannot sit and wait for the international bodies to tell us what is right and what is wrong. I think by observing what is going on in our country we know what is right and what is wrong. We know what we can tolerate and what we cannot tolerate and we know what kind of legislation and what type of model is best for us.

Being a part of this global village today, this modern time, Madam Vice-President, with free trade or open trade barriers, we are prone now more than ever to crime such as money laundering and those kinds of criminal activity. Even Trinidad and Tobago at one point in time—and I think even right now we marketed ourselves as a financial hub in the Caribbean so we are vulnerable to both legal and illegal financial flows. So having the right legislation to treat with financial flows is very, very important. I want to commend Sen. King for raising it in Parliament and having the Government act swiftly on it.

Madam Vice-President, having the proper legislation to treat with money laundering is critical, especially as it relates to attracting business and foreign direct investment from other countries. I looked at the Report from FinCEN and the Americans were warning their businesses that they are going to be going against the law if they do business with these countries. So let us not wait until these things happen. There are serious implications and consequences for when we do not adhere to international rules and regulations, and not just adhering to them but getting our own country, getting our own business in order so that we could attract foreign direct investment. As one of the more developed Caribbean countries, we are focused on developing and promoting a healthy business environment so that investors can feel free to come and do their business and know that they are not at too much risk. So it is our responsibility to make sure that we set our house in order. We are part of an international community. Things that happen here, events that happen here would affect other countries, and vice versa. So we need to get our act together.

Madam Vice-President, not just for the business side, but money laundering has a very serious impact on our social fabric. This crime is so closely linked to crimes such as kidnapping, the drug trade and the trade of illegal arms, they all come in one package and by our very location in the Caribbean, I have said over and over before, we are wedged right between the drug producing South and the marketing North. So if you are expecting drug trade, illegal arms trade, then you can be sure that money laundering and those types of crimes are going to come right behind or right along with it.

5.55 p.m.

It is not just about business; it is also about our social fabric, and in these days and times where criminals are more advanced, they are tenacious, looking for gaps in our financial system, looking for a way to break a rule, looking for a way to break the law in order to carry out their activities, we have to be vigilant.

What piqued my interest, especially with Sen. King's contribution, she was implying that the People's National Movement was slow to treating with the issue of money laundering and this legislation that we are getting ready to pass today—and I want to remind this honourable Senate that the template, the whole drafting of the legislation to treat with money laundering came from the People's National Movement. We had set off a comprehensive programme, a comprehensive approach, in treating with anti-money laundering regulations and rules.

I just want to highlight some pieces of legislation that were brought by the People's National Movement. In October 2009 we brought the Proceeds of Crime (Amdt.) Bill, also known as the POCA; the Financial Intelligence Unit of Trinidad

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and Tobago Act; we brought the Financial Obligations Regulations and we also brought the Anti-Terrorism (Amdt.) Bill, which was passed in January 2010. So treating with the whole issue of money laundering is nothing new to us. If you go back and check the *Hansard*, if you check the publications on the Parliament site, you would have seen the People's National Movement taking step by step, trying to build the legislation to treat with these issues. These are things that we need to look at.

So for the UNC to come here today and act like this is something new and they have now come to save the country, that is very wrong. Sen. Brig. John Sandy also caught my attention, because I sat and listened to his contribution and I was waiting for him to inform this honourable Senate and his colleagues; remind them of the speech that he would have made last year during the Caribbean Governance Regulation and Financial Crime Prevention Forum Conference at the Hyatt, held August 9—13. He boasted to his international colleagues of the legislation that we have here in Trinidad and Tobago to deal with anti-money laundering and to combat financial terrorism, and the members of the region and the international community cheered him on.

Sen. King said that nothing had happened. We would have set up the FIB in November of 2009 and that institution was responsible for treating with financial intelligence. I want to find the exact quote from Sen. Brig. Sandy. He was boasting that on June 29—I cannot put my hands on it right now, but on June 29, 2010 he was boasting of the activities that were carried out by the FIB, that there was this big bust that seized cash and brought these cases to treat with money laundering and financial terrorism and different cases to be brought before the court.

This was just June 29; this was 11 days after we would have taken our oath of office; this was 11 days after he was sworn in to be Minister of National Security. Now, all these activities that he boasted about could not have happened in 11 days. So while he bragged to his friends from Caricom and from the international community, he forgot to tell them that this foundation, this strong foundation, which they are now building on and they refuse to say “thank you” for, was built by the People's National Movement.

This whole issue of governance and making legislation and that kind of thing is about nation building. We would have done our part. When you are in government, when you are running the country, it is your responsibility to make significant contributions to building up. In no way you are going to be able to break down and start building from the bottom up again. If we continue to do that,

we are going to be wasting funds and wasting time and boasting about a lot of things and promising a lot of things that we know we are not going to deliver. The People's National Movement would have taken you to a specific point; you have the baton now. Take up your baton and run, and then when it is our time again, we will take the baton and run again. This is about nation building.

I have another question. We came here in February and we sat until very late in the night, into wee hours in the morning, treating with this legislation and we were assured then that this was enough to meet the recommendations and the expectations of FATF. Now we find ourselves here, two months after, and I am wondering why we are back here dealing with this so soon. What did we not do in February? You heard Sen. Brig. Sandy and Sen. King say, "Oh, I would have known about this problem since five years ago", and you had the chance to treat with these issues and to make things right in February 2011, and you did not, so we are back here two months after.

This is not time for the blame game and the PNM had not done anything. We know that that is not true; they know that that is not true. They are not fooling anybody, Madam Vice-President. So I think we need to figure out what kind of model we really want. You are hearing on one end, the administrative model; you are hearing on another end, the hybrid model. What are we really trying to do? We need to get it right this time so we would not have to come back here in two months again, trying to do another marathon session, trying to get this right.

When I contributed in February, I stated the recommendations of FATF and I asked: what are we doing today in February? Is this enough to meet the recommendations? And we were assured, yes, but now we are back here. We need to figure out which model we want. Seventy-six out of 116 Egmont—or however we want to pronounce it—countries have the administrative model and FATF gave us the flexibility to determine which model is best for us. So by anybody coming here today to tell us, "Well, FATF wants us to do the judiciary model or the legislative model", that is playing with us so that you can do what you want with it.

So we, as a Parliament, need to figure out, and the Government needs to figure out which one is best for our country and figure out what FATF is asking for. They had requested three recommendations for Trinidad and Tobago to be in full compliance:

"(1) implementing adequate procedures to identify and freeze terrorist assets without delay (Special Recommendation III); (2) implementing adequate procedures for the confiscation of funds related to money laundering (Recommendation 3); and (3) establishing a fully operational and effectively functioning FIU, including supervisory powers (Recommendation 26)."

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The measures that we are putting in place today, are we following what is recommended by FATF? Are we doing what is recommended? Do we have the necessary resources and people within the Financial Intelligence Unit to carry out the supervisory functions and add the necessary teeth that we are promoting here today? This is our chance again—two months after February—to get it right. I suggest that we go through these recommendations and really ensure that we are fulfilling the expectations and the recommendations of the FATF so we would not waste each other's time.

With that said, I want to also urge that we look at ways to strengthen our intelligence capacity, because this legislation speaks seriously about regional cooperation in the area of intelligence, and we know what our reputation is in this country as it relates to treating with intelligence matters. This whole issue of money laundering and sharing information with our neighbours within the Caribbean is based on trust. We have to trust each other; we have to show that we are worthy of being trusted. If the Government is doing that, I do not know. We have to make up our minds whether we trust the Attorney General more than we trust the Minister of Finance. We decided to settle with the Minister of Finance. I hope we made the right decision. So let us check the recommendations and make sure that we are really complying this time.

With that said, I thank you, Madam Vice-President. [*Desk thumping*]

Sen. Fitzgerald Hinds: Thank you very much, Madam Vice-President. [*Desk thumping*] Madam Vice-President, a lot has been said on the measures before us throughout this day. Essentially, these measures, presumably to enhance the operation of the FIU which we had put in place since 2009, are really about crime, criminal behaviour, a manifestation of it; the accumulation and movement of funds to support international terrorism and, of course, money laundering which, as we all know, has to do with recycling ill-gotten gains from the drug and arms trades and making them usable, worthy of use, without the attention of the authorities.

The Government has been in power now for about nine months and I remember them speaking time and time again and asking the PNM—

Hon. Senator: Eleven months.

Sen. F. Hinds: Eleven months—asking time and time again: who is Mr. Big? Where is Mr. Big? I would have thought that by now you should know who Mr. Big is! Everybody in this country knows that there are drug dealers in this country who are operating today, with impunity, without a hiccup, unhindered,

unperturbed, unbothered, by that Government and its effort in national security. Evidence? Take a walk across Duncan Street, Nelson Street, parts of El Socorro, parts of Diego Martin, parts of Cocorite; anywhere in this country—central Trinidad—and you would find that access to drugs is as easy as taking candy from a baby. It has never been in short supply; easily accessible: \$5 a rock; \$10 a rock, as we see more and more of our citizens become entrapped in the nasty world of drugs and topple over to vagrancy and street dwelling. Now we ask them: how come? Who is Mr. Big? What are you doing?

As for terrorist financing, worse still, that is more insidious. Perhaps they do not even think it happens around Trinidad and Tobago, because I remember when we passed the Anti-Terrorism Act—I piloted it in the other place and there was a lot of opposition from the other side. Part of the opposition was that, “We do not need that here”. There were big debates at the UWI. I had to represent our government at the UWI alongside others from the other side, arguing that we did not even need it. Today I heard the Minister of National Security explain in this way, that Trinidad and Tobago could easily be a forum for international terrorism. They did not know that before. They know that now!

6.10 p.m.

The Attorney General, as my friend, Sen. Deyalsingh reminded us, spoke of car dealers, jewellers, real estate persons, as becoming listed businesses, because it is understood that these are groups that deal with cash, deal with money and can be used, sometimes unwittingly, in the support of terrorist financing and money laundering. He did not say farmers. I imagine, because in the opinion of the Attorney General and the Government, farmers are not so prone to that kind of activity. Farmers are people who work very hard for many years. I do a little gardening at home, and I have discovered how tough fighting nature is in the business of farming to keep the weeds away from the heads of lettuce and other stuff; it is difficult. So the Attorney General did not include farmers.

But while on the one hand they manifest this observation that farmers are not one of the groups, at the same time hostility to farmers in this country—hostility. Farmers nourish and feed us. We are dealing with FIU, we are dealing with drugs. There are those who feed our children drugs, poison them, make a lot of money in the process. Farmers nourish us and feed us, keep us healthy, keep us whole, save us a substantial food import bill but lo and behold, this is what we are greeted with.

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Last night, I am watching my television seeing big men crying at the hands of a Government that has its base in agriculture.

Sen. Abdulah: Madam Vice-President—

Sen. F. Hinds: Tell him to sit.

Sen. Abdulah: —35(1). I am not so sure what that headline has to do with the FIU Bill now being debated.

Madam Vice-President: Hon. Senator, it is in relation—I believe you are going to tie it in, because you were making reference to the feeding of drugs via food and all of that. So I am going to have to allow, but bring it in. [*Desk thumping*]

Sen. F. Hinds: I suspect that because the headline is in red, it attracted Sen. Abdulah.

Sen. Abdulah: I was there this morning with the farmers.

Sen. F. Hinds: They cried! They cried! And I heard one of them say that the Government passing FIU legislation today, dealing with crime and money laundering, and they are innocent, hard-working citizens who supported that Government, planted pineapple, bodi, lettuce, melongene. And I heard one of them say last night, as I move on, Madam Vice-President, that the PNM indeed—and all governments would have used land, because you need land to build houses, and there is always going to be a balance between houses and food, but never in the history of this country did they ever see any PNM government come with tractors and bulldoze living crops. [*Desk thumping*] Wickedness, they described it as political, and “PP” wickedness. But let me proceed I would not let Sen. Abdulah trouble me.

Ferdie Ferreira wrote a beautiful article—I commend it to you—in yesterday’s newspaper; an article in yesterday’s *Newsday* by Ferdie Ferreira. If I had more time I would have read it for you.

Sen. Baptiste-Cornelis: You want me to read PNM defending the PNM?

Sen. Abdulah: Ferdie defending you and the party. He has to defend the PNM.

Sen. F. Hinds: Well, you are not defending PNM and you are not defending the workers either! You told this country that 5 per cent was not a good and balanced bargain for the public servants, and now you are eating your biscuit and shutting your mouth. You, Sen. Abdulah, not a word! [*Desk thumping*]

Sen. Abdulah: Which farmers are you supporting? You never support farmers; PNM never did one thing.

Sen. F. Hinds: Madam Vice-President, I am being disturbed. I want to speak in silence. Sen. Abdulah is becoming agitated.

Sen. Abdulah: You are agitated.

Sen. F. Hinds: They were debating whether to “bobolize” him or Watson Duke. Poor Watson Duke got it Good Friday, but it should have been Sen. Abdulah. [*Desk thumping*] There was big debate in the trade union movement, who should it be? Madam Vice-President, I want to speak in silence. I think it is Standing Order 39.

Madam Vice-President, I would like to take this opportunity before I continue, to congratulate the Members of the Opposition in the front Bench here today. I thought that all of my colleagues made wonderful contributions to the development of this debate. I particularly want to congratulate Sen. Mariano Browne who displayed PNM intelligence and PNM class.

Sen. Panday: Which side of the PNM?

Sen. F. Hinds: And having not been on his legs in this place for such a long time, displayed no sign, not a scintilla of ring rust. He was as smooth as you could have it, and I want to congratulate him for that.

My friend, Sen. Brig. Sandy, I have said without repentance, a man for whom I have a tremendous amount of love and respect.

Sen. Panday: And you will speak about him in glowing terms.

Sen. F. Hinds: Madam Vice-President, Standing Order 39—[*Laughter*] [*Crosstalk*]

I do not associate Sen. Brig. Sandy with malice or ill will at any stage. I am telling you that, but today he gave us a half-truth. He told us that his predecessor never attended any meeting, and he gave the impression—[*Interruption*]

Sen. Brig. Sandy: Say what I said.

Sen. F. Hinds: Abroad.

Sen. Panday: Yes.

Sen. F. Hinds: He has now further qualified it. He is getting deeper and deeper into the UNC mire. As he stumbles along, he is now further qualifying it. He gave us—I mean, my friend, I love you, I respect you. He gave us a half-truth, and while I do not ascribe this quotation to him, I remembered it being said in my

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early years—“a little truth spoken with wicked intent is worst than all the lies one can invent”, he gave us a half-truth today, but I would leave it like that for the time being.

I want to ask, because I think it was Sen. Prof. Watson, and I think Sen. Cudjoe, who raised questions as we went along, if you would permit me. Sen. Cudjoe in particular, Sen. Prof. Watson as well: are we really progressing? We were here in February 2011, two months ago, at the behest of the Government to deal with matters here. And Sen. Cudjoe made a very potent point. The issues that we are dealing with today if nothing happened in-between, and if it is that we did not fail to do the things we ought to have done between February and now, why are we here today? This is what she asked. Something happened between February and today to cause us to have to come back with these measures. She asked the question, and it is about validation, but why did we not validate then?

PROCEDURAL MOTION

The Minister of State in the Ministry of National Security (Sen. The Hon. Subhas Panday): Madam Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continues to sit until the completion of this matter and the matter listed as No. 2 on the Order Paper, “An Act to provide for the extension and validation of the census taken pursuant to the Census (2011) Order, 2010 and matters related thereto”. Thank you, Madam Vice-President.

Question put and agreed to.

FINANCIAL INTELLIGENCE UNIT BILL

Sen. F. Hinds: Thank you very much. I was asking the question, are we, as a nation, progressing? We experienced the events of 1970. Some thought it was a very useful experience for Trinidad and Tobago, but look at the leaders of that movement today. Are we progressing? The year 1990 led to a lot of disturbance in the country, crime, a gun culture came—useless event as far as I am concerned, which did nothing developmental for Trinidad and Tobago. Did we learn from that?

6.20 p.m.

Independence in 1962, Republicanism in 1976, but today we still have the Privy Council as our highest court, not the Caribbean Court of Justice which is situated in Trinidad and Tobago. Several enquiries into the Trinidad and Tobago Police Service over the years, the organization that looks into fighting crime and dealing with this question of money laundering and so on, and anti-terrorism.

Several enquiries, but look at where we are with our police service today. Imagine members of the Second Division are calling for the Commissioner of Police to be dismissed.

We had the Scott Drug Report in the '90s which we “palance” all over the platforms, politically, but nothing came of it. People got a lot of political satisfaction out of dealing with it, calling persons’ names, and by the time they were finished it was not good enough to stand judicial scrutiny. It was of no juridical value. We had recently the Uff Commission, very costly—[*Interruption*]

Sen. Panday: “Who get all that money?”

Sen. F. Hinds:—and I do not know—you see, when Sen. Prof. Watson was speaking a while ago about people finding ingenious ways to raise money and to beat regulations and I asked him whether he was speaking about FIFA and the overpriced tickets that are marketed around the world, everybody on the Government Benches went silent “like you have pip”. Not a man answered. Nobody said anything about that, but now you are asking about money? “You all are two-faced bad, you know.” Right around, “you have mess” and you are not seeing that! Silent in the face of that, but you are quick to ask other people about their affairs and shameless with it.

We are now having a commission of enquiry into the events of 1990, and I suspect it will come to naught. Tremendous expense and it will come to naught.

Finally, Madam Vice-President, as I ask where are we going, there was haste. The MSJ, the COP, the TOP, the UNC and the NJAC all came together to replace the PNM, and what is the result? Poof! Nothing! Nothing! [*Desk thumping and laughter*] Nothing has come of it. Economic stagnation, constitutional constipation, crime rampant and we are here to discuss the FIU today, so let me focus a bit about that. [*Laughter and desk thumping*]

As Karen Asche told us in her calypso, wonderful—and may I congratulate her publicly—“Be Careful What Yuh Ask For”. My friend, you are laughing at me. [*Interruption*]

Sen. Panday: No, no, no, laughing with you.

Sen. F. Hinds: Okay. I feel to cry. When I watch this headline about the way your Government treated the farmers, I feel to cry. This is a sad thing. [*Interruption*]

Sen. George: We cried in May of last year.

Sen. F. Hinds: A very good friend of mine, a farmer, told me that—you see when money launderers try to raise money and persons who accumulate money for terrorism—the greatest joy he would ever get is when he plants his sucker,

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sees it grow and it throws the flower, and then it throws a big large bunch of plantains or other bananas. He said it is like a mother giving birth, and it is in the context of that when I saw what they were doing to the poor farmers in Mausica and in Central Trinidad, I felt to cry.

Sen. George: Madam Vice-President, Standing Order 35(1).

Madam Vice-President: Standing Order 35(1). Again, I would indicate that because Sen. Hinds brought in the idea in reference to the planting and in reference to the Bill in front of him, he did tie it in. But I urge you, Sen. Hinds, please, move on the path of caution in proceeding with that particular Bill. In fact, that particular idea if you could move on and—

Sen. F. Hinds: Most obliged. Madam Vice-President, let me go straight to the Bill. [*Laughter*]

Sen. George: You are an honest “fella.”

Sen. F. Hinds: No, I was speaking around it, but now I am dealing precisely with it. [*Interruption*]

Sen. George: You admit then?

Sen. Ramlogan: You always do that in the last five minutes of—[*Interruption*]

Sen. F. Hinds: The powers of the FIU are very, very substantial, very significant, serious powers. Let me put for the record some of them, if not all of them.

According to section 8 of the Act, No. 11 of 2009:

“(1) The FIU shall be the primary institution for the collection of financial intelligence and information and analysis, dissemination, and exchange of such financial intelligence and information among law enforcement authorities, financial institutions and listed business in Trinidad and Tobago and internationally.

(2) The FIU shall also receive suspicious transaction and suspicious activity reports from financial institutions and listed business in accordance with this Act.”

Madam Vice-President, on the last occasion I had read a list because there was a complaint that this legislation does not define what a suspicious transaction is. I want to read into the record some elements of suspicious transactions, bearing in mind, of course, that this list is not exhaustive:

- a request for a discovery of an unnecessarily complicated trust or corporate structure involving several different jurisdictions;

- payments or settlements to or from an administered entity which are of the size or source which had not been expected and an administered entity entering into transactions which have little or no obvious purpose, or which are unrelated to the anticipated objects;
- transactions involving cash or bearing instruments outside of a recognized clearing system;
- sales invoiced values exceeding the known or expected value of goods or services, sales or purchases at inflated or undervalued prices;
- the sale of a motor car or maybe of a house;
- a large number of bank accounts or other financial services products, all receiving small payments in which the total amounts to a significant sum;
- large payments of third-party cheques endorsed in favour of the customer;
- unwillingness to disclose the source of funds;
- the use of postal boxes for no obvious advantage;
- unnecessarily complex group structure;
- unexplained subsidiaries; and finally
- the use of several currencies for no apparent purposes.

Now, this list I picked up from a document in reading and these are examples, not exhaustive as I say, of suspicious transactions. Based on the presentation made by the Attorney General, I was able to glean from his presentation a few others which I would like to add:

- no obvious income, but substantial assets;
- underpricing competitors in the merchandising trade;
- giving away—he did not say this one. This is mine—profusely large sums of money at the drop of a hat, playing national community big daddy.

Like Dole Chadee and they did in some years past. I understand he built a mandir for the people in Piparo, and Pablo Escobar was very, very generous sharing his wealth in South America; and everybody calling you uncle this, Uncle John, Uncle James or Uncle Jack. All these are examples. [*Interruption*]

Sen. Panday: Wicked.

Sen. F. Hinds: I do not wish to be disturbed, Madam Vice-President. So may I continue as I deal with the expansive and very serious powers of the FIU? I am

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coming to the point that we had challenged vociferously any idea of the FIU going into the Ministry of the Attorney General.

My colleagues in the other place, my leader, the hon. Dr. Rowley, the Leader of the Opposition—*[Interruption]*

Sen. Panday: For the time being. *[Interruption]*

Sen. F. Hinds:—and, of course, other Members of Parliament representing the Opposition in the Lower House—*[Crosstalk]*

Sen. Panday: “All yuh gallery”!

Sen. F. Hinds: I think you need to pay attention to that expensive trip that your Government is in the process of taking down to Brazil; an aircraft that would hold 154 people. I could just picture right now, at least two of them including your leader, dancing away in the cockpit as they approach Rio. That is all I could picture. *[Interruption]*

Sen. Panday: “De nation gone wild.” Do you think we should have brought a bombardier?

Sen. F. Hinds: Madam Vice-President, section 8(3) says:

“In furtherance of the functions”—may I continue—“assigned to it under subsections (1) and (2), the FIU—

- (a) may request financial information from a financial institution or listed business in order to facilitate the exercise of its powers under this Act;
- (b) shall analyze and evaluate reports and information upon receipt thereof, to determine whether there is sufficient basis to transmit reports for investigation by any local or foreign law enforcement authority;”

As I said, expansive and very serious powers, and for that reason—and others, Sen. Cudjoe raised another point and Sen. Deyalsingh as well, that we are claiming that we are operating an administrative model.

The Attorney General tells us that with these measures he was strengthening the administrative model. He pointed out in his presentation in the other place, that he was reluctant to keep the administrative model. He want a law enforcement or some other type of model, but because of the exigencies of the circumstances, the hard timelines that confront the Government and—fortunately, we had Sen. Browne here today to point out that up until he dealt with this matter

as late as November of 2009, the country was well on the way of fulfilling all of its obligations to the FATF [*Desk thumping*] and the CFATF. But again, they gave the impression that it was something that PNM did not do that led to it.

Sen. Cudjoe, young, bright and wonderful as she is, a remarkable contribution today, [*Desk thumping*] I am obliged to repeat it. I was impressed by it. Very banal, but it resonated with me. She said, “Here we are two months after February, making amendments to this legislation again.” She had specifically enquired of the Attorney General in February. whether all that we had to do would have been satisfied by the measures that were before us in February. The answer was a resounding, yes. She then asked the question: then why are we here today? [*Interruption*]

Sen. Panday: On a point of order.

Sen. F. Hinds: What is the point of order? Do you want to me to give way?

Sen. Panday: You are misleading the Senate. The Attorney General never said that there would be no further amendments. Because before that amendment came, we met in LRC and had decided that we would come with that amendment in February and another one, subsequently. So do not come with that.

Sen. F. Hinds: I do not wish to hear your bedroom business, you know. I am not interested in what happens behind there, especially since I cannot trust what you all have to say. What Sen. Cudjoe said is that you told us on that last occasion that the measures before us in February would have made us compliant. [*Interruption*]

Sen. Al-Rawi: That is right. Come again!

Sen. F. Hinds: Therefore, the question remains valid, it remains relevant. As we come this evening to speak of validation it remains quite valid. Why are we here?

The Attorney General told us in the other place that it was to validate things that happened a long time ago, but he did not attempt to validate them then. He said nothing about whether there was a need to validate actions taken by the current incumbent, now that it has become plain for this Parliament and the nation to see that the appointment was invalid, null, void and of no effect because, contrary to the warnings, contrary to the advice that we gave you, you went ahead in your usual UNC huff and puff, appointed the young lady and, today, as I told you earlier, it has come to poof—nothing! And the only reason I would not elucidate on that matter further is because I do not want to tarnish the name of the officeholder because—

6.35 p.m.

Sen. Panday: Again.

Sen. F. Hinds: We never did. We always made it clear. Dr. Rowley, the Leader of the Opposition in the other place, made it clear I do not even know the officeholder. That is not the issue. The issue was whether it was proper for the Cabinet to appoint—“and you know, everybody blaming the Attorney General and everybody calling the Attorney General”, he deserves blame—but it is not the Attorney General, it is your Cabinet, and Sen. Prof. Watson is excluded from this. I read an article yesterday where he was described as Minister in the Ministry of Finance, but now we know that, he was not. He spoke with that authority but he was not, so he is excluded. It was your Cabinet, together, collectively, you made a major constitutional faux pas, “ah five pas really”. [Laughter] You could laugh at me if you wish.

But, again, I feel to cry. Every time I see this headline, [*Sen. Hinds holds up newspaper*] what you all did to the farmers, I feel to cry. [*Desk thumping and interruption*] No, it is really sad what you all did to these people, these people who voted for you. And I heard them just like the trade unions, who you all have betrayed, I heard them calling Watson Duke last week, Judas Iscariot, you know. And Sen. Abdulah sits quietly now, comrade McLeod sits quietly now, and all the children of this nation who we are trying to protect with the FIU legislation, whose parents are hard-working public servants, who were demanding a better share of the pie from this Government, they did something to Mr. Duke.

Something they did? I do not know what it is. I have to find out. I think maybe Archbishop Burke might be able to help me [*Desk thumping and laughter*] Something they did to that young man and all of sudden, poof! “He just went and sign”, something they did. Poof! I am afraid of you all! I am afraid. Madam Vice-President, Standing Order 39. Sen. Abdulah in his usual red way is tormenting me. [Laughter]

Madam Vice-President: Senator, you have asked for Standing Order 39 but I think you have literally encouraged it, so just continue. [*Desk thumping*]

Sen. F. Hinds: And I see the hon. Minister of National Security who told us earlier today that he was the operations officer in the army, the operations officer in the Trinidad and Tobago Defence Force is the man who leads the defence or

the attack. That is the man. And every time Sen. Abdullah opens his mouth, I wonder sometimes if that Brigadier did not have to pay attention to him in his earlier years. I wonder.

Madam Vice-President, we had a concern with that and we have expressed it. Sen. Al-Rawi was very clear—I do not want to belabour the issue because, you see, I asked a question earlier today of the Minister of Science, Technology and Tertiary Education, Minister Panday answered. I wanted to know who requested the resumé for that lady, who gave it to the Prime Minister and what role the Prime Minister had to do with this, and he obfuscated—if you have difficulty with that word, he covered up, he did not answer me and I want to be careful as I deal with this matter because—

Sen. Panday: Madam Vice-President, Standing Order 35(4).

Sen. F. Hinds: Do not worry with him, Madam Vice-President, he is just wasting our time. But, Madam Vice-President, we have to be careful. The officer who is now the incumbent director or who is purportedly the director of the FIU—qualified, dignified, hard-working—and I am sure she was asked. I am sure, because she did not apply for the job, you know, she did not apply. Somebody would have seen the good young lady where she was and called her and said, “Look, we need to fill a position here” and got the lady out of her comfort zone and put the lady in a most invidious position.

So, this is why we are going to be very responsible in treating with this matter because we cast no aspersions on the lady. We defended David West who was also appointed to do a job and he did it quite well. And I wanted to be able to say the same about Reshmi Ramnarine, but because I am not getting answers to the questions we asked, I do not know if she was culpable, or if she too is an innocent bystander in the UNC’s wicked ways. And today, Reshmi Ramnarine’s name is a household name in this country. I am sure she is going to have issues for employment in this country because she was set-up, just like the Minister of National Security, a set-up that came from the bowels of your Government.

But, Sen. Al-Rawi explained that it was quite clear—Sen. Deyalsingh as well—when you read the legislation, and as Sen. Mariano Browne is present today—again, let me congratulate him on his, not maiden but his most recent contribution. [*Desk thumping*] He told us, Madam Vice-President, that it was made clear in much exchange between the Government—he piloted the Bill—and the Independent Bench that the intention clearly was from the debates, that the Public Service Commission appoint the director and deputy director of the FIU—very, very clear.

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The Attorney General is a lawyer of some repute in this country, and he knows, he understands full well the implications of the authority of *Pepper v Hart* and the authority simply says where the primary legislation is ambiguous and there is no clear understanding of its import, then you can make reference to the *Hansard* debates for assistance in terms of determining what the intention of the Parliament or the intention of the law is. He knew that. But he went ahead—not the Attorney General, the Cabinet led by your Prime Minister—went ahead and got it very sorely wrong, yet again, yet again!

And so we are here to validate things. He did not tell us what we are validating really, but in the other place he gave the impression it is old things but we—as Sen. Deyalsingh pointed out—we know it is old and new things, so we are taking note as usual.

The upshot of this, Madam Vice-President, the FIU is now headed by a Ms. Suzanne Francois.

Sen. Panday: The lady's name whom you did not wish to call.

Sen. F. Hinds: The country knows and the country also knows that she is a dignified and hard-working and well qualified individual, [*Desk thumping*] whose reputation is threatened to be tarnished because of a contact with your Government. [*Interruption*] They know that. She must be humiliated and embarrassed, and her name is now on everyone's lips in this country, but I am sure she will get over. In fact, if I were in her position, I would demit the office promptly, promptly.

And the final matter now to be resolved, she continues to hold the office, it has been now palpably demonstrated that she was improperly appointed, and we have argued in the other place and continue to argue here, in those circumstances, she cannot continue to hold an office that was null and void and of no consequence *ab initio*.

And therefore, we ask the Attorney General and the Government to do the right thing. The Public Service Commission has put out advertisements. It has indicated that it will advertise the position, and she can contest for it like everyone else. Transparency and openness and the proper procedures required—because she did not go through the procedure of the Public Service Commission, and to hold that office, she must.

6:45 p.m.

A very simple point escaped the Attorney General and when I read the debate I saw it you know, I saw it. He took the position. Because when we called on the Attorney General to explain—because I had said here in the debate in February that I was aware that there was a process, there was an advertisement, people had applied and they had interviewed about two or three—a shortlist of persons.

The interviewing panel received a phone call from the highest levels of this Government calling on them to abort that process, which they did. The goodly lady never applied, she was implanted into the position, much to the chagrin to those who did, who obviously would have felt unfairly treated. So, since she did not go through those procedures, in order to be properly appointed she will have to.

I think the Attorney General must be terribly embarrassed because, notwithstanding his imperfections—and there might be many—he must have a light of good somewhere inside of him, and he does not want to embarrass the lady either. I know the position he is in. He is embarrassed to ask the lady, dignified and qualified, suitably qualified as she might be, to demit office because of his and his Prime Minister's and his Cabinet's error. It must be a painful thing to do, but sometimes it is more painful to do the right thing.

In defence of my locks, I told someone that the other day, it is easier to look like you, it just takes \$20 and ten minutes in a barber's chair, but this is 25 years, an outward sign of an inner feeling. "And I feel so proud to look more like Jesus Christ than you", that is, the person I was speaking to. [*Desk thumping*] [*Laughter*] I told them that. I told them. Of all the images we have seen—

Sen. Abdulah: You talk about blasphemy!

Sen. Baptiste-Cornelis: Blasphemy!

Sen. F. Hinds:—you see Sen. Abdulah, you are a communist by nature and I—[*Laughter*]

Madam Vice-President: Senator, carry on with your contribution and stop calling names to the hon. Sen. Abdulah.

Sen. F. Hinds: He just shouted out something here you know. You can check *Hansard*. He said—

Madam Vice-President: Senator, carry on please. [*Interruption*]

Sen. F. Hinds: I did not call your name. I am continuing. May I continue, Madam Vice-President?

Sen. Abdulah: It is insulting.

Sen. F. Hinds: May I continue? Madam Vice-President, because I did jurisprudence and I did my little research, and I know how he feels about things spiritual, based on his underpinnings and so on, Madam Vice-President, I will indeed be guided by you and I will continue.

The trouble we had as well is that the model we have ended up with is now beginning to look more hybrid than administrative, because in the pure administrative model and in most of the examples around the world, the FIU in the administrative model finds itself in the Ministry of Finance. But the Government, led by the Attorney General, argued vehemently that they wanted to get the FIU alongside other investigative bodies that are housed in the office of the Attorney General, so that there would be certain synergies between them or among them—*[Interruption]* yes, or either way, you get the point. *[Desk thumping]* *[Laughter]*

So, Madam Vice-President, law enforcement models, however, they carry an investigative or a police unit, and they typically fall within the Ministry of Justice or the Attorney General's department depending on what exists in the particular countries, along with their law enforcement unit. So we took strong objection to that and we are happy that these concerns were well ventilated and have been taken heed of, so to speak.

Madam Vice-President, as I wind to a conclusion, the question was asked and I would like to reiterate it—

Madam Vice-President: Actually, your speaking time has expired. I do not know if you wish to wrap up or I could ask that—but your speaking time has expired. Hon. Members, the speaking time of the hon. Senator has expired

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

Hon Senators: Oh, no, no, no, no!

Sen. Baptiste-Cornelis: Five, five minutes!

Question put and agreed to.

Sen. F. Hinds: May I thank you. *[Desk thumping]* Anything they could do to curtail free speech they would. Very vicious, very vicious Government. Very vicious, but thank God for the Parliament and thank God for you, Madam Vice-President. *[Desk thumping]* *[Shouting]* You stand between me and those who are intent on curtailing free speech opposite to me.

Sen. George: Like Marlene Coudray.

Hon. Sen.: What lies between you and the PNM?

Sen. F. Hinds: The question of the oath was a matter that arose in the other place and the Attorney General had proposed a formula that recognized a respect for confidentiality and did not take into account the regular public service oath

which I would describe as an oath of duty, to act consciously, fairly, and all of those things. There was extensive debate on that downstairs in the other place, and the bottom line was that they had agreed that the oath from the Integrity in Public Life Act of 2000, which deals with confidentiality, would be transported into this legislation and married with the oath of duty as I have just described it. What we have before us, perhaps inadvertently, is purely an oath dealing with confidentiality. We discussed it. Myself and a couple of other persons we understand that, we raised it with our colleagues on the other side, and we have taken satisfaction and an assurance that at an early stage in the future we would have this anomaly rectified, and we abide by that.

There are a couple of other minor issues which we have also raised and some would be raised in committee again. We are prepared to abide by the goodwill of the Attorney General, what—[*Interruption*—I was about to say—“doh put words in meh mouth, leh meh say wat ah have tuh say”—but we are prepared to content ourselves with the goodwill as he has promised. I take note of the fact that when he presented these measures today, he sounded like the Attorney General that Trinidad and Tobago wanted. [*Desk thumping*] He was not as ebullient, he was not as political as he could be, and I want to—[*Interruption*—I understand that because he fired one of his—let me “doh” say “dat”, no “doh” say “dat”. But at any rate, we are comforted by the posture that he took as he presented this today.

As I conclude, let me say to you, Madam Vice-President, we as the Opposition in this Parliament have worked very, very strenuously with the Government in the public interest on these measures. I heard him compliment colleagues from the other place, from the Opposition PNM for their work on a weekend. Do you know what we did with the anti-gang legislation? We have been cooperating—as a matter of fact, again the wise and beautiful words of Sen. Shamfa Cudjoe come to mind. I am very serious. This is not small talk. Had it not been for the work of the PNM, you would have been idle for the last nine months, you know. [*Desk thumping*] [*Laughter*]

6.55 p.m.

Really, really! Not a single Bill this Government brought here to date is an original Bill belonging to them; not one.

Sen. Baptiste-Cornelis: The Children’s Life Fund.

Sen. F. Hinds: Ooooooh. The Children’s Life Fund. Thank you for reminding me. You see how good you can remember. Call another! Not one! Every single measure they brought was drafted by a PNM government and left in the office of

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the Attorney General. Had it not been for the PNM, you would have been rubbing your wrists for the last nine months. You would have had your hand in your bracers outside of the office, doing nothing!

How ungrateful you are! Before you come regularly and thank God for the People's National Movement, every opportunity you get you criticize us. That is the reason I felt to cry when I saw this earlier today. [*Sen. Hinds raises newspapers*] That is the reason the former Farmers Association—Mr. Deonarine, must be turning in his grave today. That is why you made farmers cry over the Easter weekend. That is why the homeless feel no comfort at your coming. That is the reason the drug addicts in this country—a matter I shall return to in the census debate when it comes up later—are at greater risk since you came. You cancelled the OPV programme and opened the door wide for the coke men to walk right in, and now talking nonsense about going to get three smaller vessels that could be at sea for three weeks as opposed to the OPV programme, which would have left them out there for three months. Ridiculous!

You “mash up” the Special Anti-Crime Unit. You fired its head. I heard Sen. The Hon. Brig. Sandy today, shamelessly—I am so sorry; I withdraw that. Sen. The Hon. Brig. Sandy is a man with some shame. He bent his head when he was saying it! He was saying to us that the Special Anti-Crime Unit is still functional because nothing has happened to it as yet. They have a report and when it is finalized, then they will kill it. In the meantime, they do not understand that it is human beings with brains and minds who occupy the offices in the Special Anti-Crime Unit and they are at this time completely demoralized because they know the UNC dagger is above their backs. Do you understand, Madam Vice-President? I am sure you do.

We are here to discuss the Financial Intelligence Unit and we will make our contribution to it. We have. We worked hard on it. We worked hard on the Anti-Gang Bill. We cooperated with you as best as we could in the public interest, but we also know that since the UNC coalition came into government, you have worsened the national security effort in dealing with crime, drugs, guns and money laundering. You have worsened it and all you do is lime, party and drink and have a wonderful good time while this nation is at greater risk.

I look forward to the next debate on the census. I put them on notice that I will deal with some of those matters more fully thereat.

Madam Vice-President, with your kind leave, I would like to sit. Having uttered these few words, I hope they touch the hearts of some of those on the other side who have hearts. I think the Minister of Health might be one of them; having some difficulties with the health sector, but, notwithstanding, I gather she has a good heart. As for Sen. The Hon. Abdulah, I will treat with him later.

Madam Vice-President, with these few words, I thank you very warmly.

The Attorney General (Sen. The Hon. Anand Ramlogan): Madam Vice-President, thank you very much. I think it is right, fitting and proper that I start on a conciliatory note to pick up where my learned friend, Sen. Hinds, left off. Yes, the Opposition has been cooperating and, to borrow a phrase from him, he said: “Had it not been for the Opposition, the Government would have been idle” and that they have been cooperating at the joint select committees and making a lot of input into legislation.

That is by and large a fair comment. They have been working and working well and we intend to continue to ensure they remain in Opposition so that they will continue to work well there. [*Desk thumping*]

This is one of those inverse relationships where they work in Opposition but never, never in government. That is why my learned friend can speak with such empathy about partying, drinking and fêting. He speaks from a long line of PNM experience that has ruled this country for almost half a century and when, therefore, he points to a record and speaks to the presence of Sen. Mariano Browne and says everything they inherited was en route to a successful compliance mechanism with FATF organization, we have to understand what the position we inherited was.

It is not correct to say that the country was doing well with respect to the Financial Intelligence Unit. I believe it was Sen. Al-Rawi, during the course of his contribution, who quite deftly dealt with the issue of the appointments made by the former administration to the only two offices created by the Financial Intelligence Unit Act and that is the offices of director and deputy director.

I did not want to bring it up. During my presentation, I deliberately steered clear of making a mountain out of that issue; but seeing that my learned friend has decided to postulate and score cheap political points, that they left this country—if anyone really listens to him, one would think that this country was left on a growth path and the FIU was doing fantastically and everything was in place.

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Permit me to set the record straight. Two appointments were made—director designate and deputy director designate. Neither office existed in the law that they passed. I have been advised by Senior Counsel Russell Martineau, who happens coincidentally to be a former Attorney General under a PNM government—he was one of the better ones, I agree. That is why he came out and never went back.

The point is that the advice received was that both those appointments to those non-existent offices of director designate and deputy director designate were illegal. In fact, the advice confirmed a view I had expressed in this Chamber. In light of that, the validation clause had to be brought because there are criminal matters pending where, if that validation clause is not put, we will be in jeopardy.

When they seek to make all this hoo-ha and lay blame on the doorstep of this administration with respect to the recent appointment, permit me to say that in the space of two or three months that is not something that would lead to a validation clause when you had persons in that office for over a year purporting to perform functions when in truth they were not legally appointed. That is the reality.

With respect to the present situation, there was a sharp divergence of legal opinion on the issue. My learned friends made it look like the law was clear and they made a mistake. If the law was so clear, how come you all bypassed the Public Service Commission and did not ask the commission to make the appointment of David West and the deputy director?

If the law was so clear, why did you not do it? Maybe they did not put on their glasses at that time to see it clearly. If it was so clear, is it that it has changed from then to now? Is it clear only when it is politically convenient? Madam Vice-President, I did not seek to make a song and dance about that. That is why I raised the issue and said: look, you have to understand this is what you did. If the law was so clear, you could not do that and that is why the way I pitched the ball is to say that I agreed with the Chairman of the Public Service Commission, as a matter of tactful diplomacy, that the law was ambiguous.

If the law was so clear and the Chairman of the Public Service Commission had to say that he found it ambiguous and had to go to Senior Counsel for advice, then maybe they are brighter and better than those commissioners that are serving.

The law could not have been so clear. If the law was that clear and they knew it and they read it and so interpreted it, why did they not so apply the law? They must understand the dangerous path they tread when they make such contributions. If you say you understood the law to be that and it was so clear but

you ignored it, you are telling the country that you understood what the law meant and required, but you deliberately took a decision to disobey the law of the land. It undermines the very rule of law.

May I ask the question rhetorically? Is it that the law was clear but a PNM Cabinet decided to disobey the law? Or is it as the Chairman of the Public Service Commission was saying, that the law was not clear; it was ambiguous and you made a fundamental faux pas; a constitutional faux pas or a constitutional “five pas” to borrow your term? It is a “six pas” because they appointed a director designate and a deputy director designate?

This is what, when the chickens come home to roost, it boils down to. I stand in defence of the Opposition to say that I do not believe as Attorney General that they really mean to be understood as saying that they understood the law; it was clear to them, but that they deliberately and wilfully disobeyed the law. I stand and say that that is not how they intend to be understood. If that is the case, quite frankly, something is terribly wrong with any serving public officer and Member of Parliament who would wilfully disobey and disregard a law that they understand. That is the stark reality. That is the context in which we operate.

This situation is not new to us and before we acted in this matter, I took counsel’s guidance and advice before I advised Cabinet. We proceeded with deliberate caution. Whenever you create a new office and you have to appoint someone, there is ample precedence, since Independence to now, that the Cabinet of the country, their Cabinet, took steps to appoint the person on contract pending the finalization of terms and conditions by the SRC.

That has been done, not only with the regular public service; it has even been done with positions under the purview and jurisdiction of the Judicial and Legal Service Commission in the form of the Court Executive Administrator. The Court Executive Administrator was a scheduled office for the Judicial and Legal Service Commission and a PNM Cabinet appointed the person on contract for one year pending the finalization of terms and conditions by the SRC because it is understood that when you create an office the SRC takes time to finalize the terms and conditions, and the Public Service Commission cannot—and the SRC and CPO, and the Public Service Commission cannot make an appointment unless terms and conditions are finalized.

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7.10 p.m.

Permit me to put on the record that what we inherited whilst they appointed illegally a director and a deputy director designate, no steps were taken to have terms and conditions finalized by the CPO or the SRC, and that is the position we inherited. [*Desk thumping*] I see they look slightly discombobulated. [*Laughter*]

The reality is that what we inherited was a position where no steps were taken. So when my learned friend seeks to compliment our hon. visitor, hon. Sen. Mariano Browne, to say that they left us well on the road to success, close to the finish line, I think they have the wrong finish line in their mind. Something had to be wrong. It was a designated finish line not a real finish line. [*Crosstalk*] That is the reality.

Madam Vice-President, I thought, in light of the ambiguity and given the sharp divergence of legal opinion—because there is a subsection that spoke to appointment on contract—what good would it serve Trinidad and Tobago if, as suggested or if as mooted, I go to court with the Public Service Commission? What will happen in the meantime? The State will hire lawyers, the commission will hire lawyers and they would fight it out in court. We all know that will take us 10 years into the Privy Council and 10 years henceforth the status quo will be preserved, we will be sitting here, and they will be sitting there, the FIU Director we appoint will still be there. Nothing will change. The point is 10 years, millions of dollars spent and in the meantime the status quo has to be preserved. For what?—the Government was not particularly perturbed about who appoints the director, so we were quite happy to come and say, well look, let the Public Service Commission do it; and we leave it there. [*Crosstalk*]

Now if, as my learned friend says, that was after the law was staring us in the face, I wonder, is it that they were operating with a closed law book when they were in government to appoint the designates? [*Crosstalk*]

Sen. Panday: With blinkers.

Sen. The Hon. A. Ramlogan: With blinkers. Those are the facts. Madam Vice-President, I think it serves this Government well and I am grateful to my colleagues on the Independent Bench who made mention of this and recognized the responsible stance we had adopted. Because as a Government we could dig our heels in and be arrogant about it, we could go to court on a matter, but what would that do in terms of the public interest? What we have done is to put the public interest first and we have come here to clarify that provision and then we have the validating provision to validate acts in the past.

Madam Vice-President, heavy weather was made of the model that is being adopted. I think my learned friend, Sen. Deyalsingh, mentioned the various models—the law enforcement model, he said that he did not hear anything about it. Of course, the model we have is kind of hybrid because what we have done was to try to avoid converting the FIU into a quasi-judicial or a judicial body as it were.

We toyed with the idea of, do we give the FIU the power to have coercive powers to enforce its directives, its guidelines and its orders and so on? Do we even give them the power to make an order? What would be the juridical character and the nature of a directive and so on? Rather than create such a body, what we would do is to put a hurdle where they can issue guidelines and directions and you could have a consultative approach to compliance. When that does not work you approach the High Court. That is the model. We have preserved the law enforcement in terms of the court and in terms of when you detect suspicious activity you would request one of the law enforcement agencies to actually investigate it.

What we have done as well—there exists a Financial Investigation Bureau. That Financial Investigation Bureau has always been part of the police service, I believe it was housed in SAUTT, and what we have decided to do is to retain that FIB so that the Financial Investigation Bureau will remain the law enforcement agency of choice, as it were, for the FIU because they already possess the expertise and training and have already been doing this work for the FIU in the past. That is what we have done.

Madam Vice-President, there were many points that were made during the course of this debate—especially by my learned colleagues, the hon. Independent Senators. Suffice it to say, this is one of those pieces of legislation where time is of the essence. I am grateful that we have come here with the unanimous support and approval of the elected Chamber. I was surprised in those circumstances to see all six of the Opposition Senators speaking on a matter on which we had achieved some consensus with the official Opposition in the Lower House.

But I heard the most important and the perhaps most sensible part of my learned friend, Sen. Hind's contribution which came in the last two minutes, when he said that the goodwill generated is something that he would not discount. The compromise that was struck and the consensus that was struck is not one that will be disregarded in this honourable Senate. I am grateful to my learned friend for that, as always. As always he was his usual entertaining self, as always exciting and entertaining and always reminiscent of Shakespeare's phrase; full of sound and fury and signifying poof. *[Laughter]*

Sen. George: Always off the point.

Sen. The Hon. A. Ramlogan: Yes. Anyway, with those few words, Madam Vice-President, I think some of the points made, I have indicated to my learned friends that we will take a careful look at them and if need be—I understand that the Independent Senators would not have had the opportunity to be part of the accord or the consensus that was struck in the Lower House. I am always receptive to the ideas and suggestions from the Independent Senators, so that I will take a look at what was said and we have a meeting with the International FATF organization.

It is an ongoing process. I am certain when we meet with them we will have discussions with them. I already know that there are other pieces of legislation that would have to be brought to this Senate to deal with cybercrime; Securities and Exchange Commission and other various pieces of legislation. The sophistication that is required is one that keeps increasing all the time, because whereas we are playing catch-up some countries have moved ahead and we now have to make the lap in the round. I give the assurance that we will look at what has been said and, if need be, will come back.

The oath was raised by more than one Senator. My learned friend, Independent Sen. Prescott SC, kindly allowed me to have sight of his comments on paper. The oath that we originally had would have actually conformed to the points made by one or two Independent Senators, but the Opposition had insisted on this particular form. I am willing to revisit that if need be. I do not think there would be any violent objection to someone swearing allegiance to the Constitution as the supreme law of the land. We will take a look at that and we will come back, if necessary.

For now, I want to express my deepest gratitude, Madam Vice-President, for all of the illuminating and enlightening contributions we had on this amendment Bill and thank all Senators for their contributions on behalf of those on this side, and ask that we pass this with our full support, so that Trinidad and Tobago will not be blacklisted and have the stain on its reputation. [*Crosstalk*] We feel confident that this is a matter that concerns, as Sen. Ramkhelawan said, not just parliamentarians but in fact each and every citizen in this country must be concerned about it and this is not the time for cheap politicking or partisan politics.

I thank you and I beg to move.

7.20 p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

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

Clause 4.

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

Sen. Ramkhelawan: Chair, in clause 4 I think in section 3 you made reference to the 2009 legislation as the FIU Act. Should this be, under 4, the long title to the Act or the FIU Act? I was not clear on which way we ought to be going. Throughout you made reference to the FIU Act as the 2009 specimen.

Sen. Ramlogan: We can deal with that as a typo. We can change “the” to “this”.

Sen. Panday: That is in which line, may I ask?

Sen. Hinds: In clause 4.

Sen. Panday: Thank you. Madam Vice-Chairman, clause 4, line four, the long title, by deleting the word “the” and inserting the word—

Sen. Ramlogan: No, it is not an amendment.

Sen. Panday: Okay, a typo.

Question put and agreed to.

Clause 4 ordered to stand part of the Bill.

Clause 5.

Question proposed, That clause 5 stand part of the Bill.

Sen. Drayton: Madam Chairman, clause 5(b), the financing of terrorism, where exactly in the Anti-Terrorism Act is this defined?

Sen. Panday: It is not defined, but it is referred to in section 22 of the Anti-Terrorism (Amdt.) Act 2010, 22(a), Part III (a), “financing of terrorism”. It is referred to in the Anti-Terrorism Act. Hon. Senator, we have been advised that after we meet with the FATF and we return to the House, we will amend the form of words to incorporate what you have indicated.

Sen. Drayton: I do not understand.

Sen. Ramlogan: You are correct, the financing of terrorism is not explicitly defined in that Act. But reference is made to it in the Act in section 22(a), so that incorporation by express reference is there. I think Sen. Panday is saying that when we meet with FATF, even that definition, in any event, I suspect, would require some refinement. So I accept your point; when we come back that is a point we will give due regard to. Thank you very much. I think it is a valid point.

Sen. Prescott SC: Madam Chairman, I merely intervened to remind the hon. Attorney General that I had suggested that clause 5 requires a bit of restructuring, just the architecture of it. The section that is amended, section 2, for the definition of “law enforcement authority” should read:

“means:

- (a) Commissioner of Police;
- (b) Comptroller of Customs...”—et cetera.

Clause 5 says that the definition of the term “law enforcement authority” in section 2 should be altered.

Sen. Ramlogan: You are saying (a) should be “Commissioner of Police”?

Sen. Prescott SC: Yes.

Sen. Ramlogan: I think that is a valid point, again, that could be dealt with as a matter of editing.

Sen. Panday: We note it and at the appropriate time we will take the action. Thank you so much for your guidance.

Sen. Ramlogan: It is a matter of architecture and style. [*Interruption*]

Sen. Al-Rawi: Madam Chairman, we are just noting observations, but there is no need for amendment. There is leave to the CPC in her drafting to tighten up any typographicals as a result of observations.

Sen. Panday: Okay, we will move on.

Question put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clauses 6 to 10 ordered to stand part of the Bill.

Clause 11.

Question proposed, That clause 11 stand part of the Bill.

Sen. Al-Rawi: Madam Chairman, just to observe the typographical error at paragraph 2, that is in the second line. I believe that referenced (4) in brackets should be (1), and it should read

“Before an application to the Court is made under subsection (1),”

There is no application to the court under subsection (4). It is just a typographical error.

Sen. Panday: That is a typo.

Sen. Al-Rawi: Just to observe the typo in case it was missed.

Sen. Dr. Balgobin: Is there a typo in 12(1) or 12(2)? Sorry, it is clause 11 I am dealing with. It is seeking to repeal section 12, and introduce a new section 12. In 12(1) and 12(2) there is what appears to be an inconsistency when we talk about a financial institution. In line one of 12(1) it says, “a financial institution”, but then the follow-on clause, which is 12(2) says “a non-regulated financial institution”.

Sen. Ramlogan: That was noted in the last discussion I had with Sen. Prescott SC.

Sen. Dr. Balgobin: So the error is in 12(2)?

Sen. Ramlogan: Yes.

Sen. Dr. Balgobin: Or 12(1)? Is it 12(1) or 12(2)?

Sen. Al-Rawi: I believe the error is in 12(1), because CBTT does the regulations for financial institutions under this architecture, so it may be that 12(1) refers to non-financial—

Sen. Dr. Balgobin: So it would be 12(1) that is wrong?

Sen. Panday: We have been advised that 12(1) refers to all financial institutions.

Sen. Drayton: Then you would have to add “non-regulated financial institutions” as a third category.

Sen. Al-Rawi: If I may, this may assist somewhat. I have a number of observations as to a few typographicals, as I will call them for today, in section 12 as it is proposed to be repealed and, in fact, in section 18. It is part of my contribution that there are some points, but I accept that we are coming back to deal with those on another occasion. For now I will just ask for them to be

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observed, because the dichotomy between non-regulated and regulated, without the words, “financial institutions”, just keep it in mind and observe those things need to be tidied up between 12 and 18.

Sen. Panday: Thank you so much.

Sen. Prescott SC: Madam Chairman, forgive me. I think on this Bench we are not sure what the explanation and the resolution were.

Sen. Panday: The explanation was “financial institution” includes non-regulated financial institutions.

Sen. Dr. Balgobin: It does not, but there is a separate definition for “non-regulated financial institution” in the definitions section of this Bill.

Sen. Panday: The definition includes all.

Sen. Dr. Balgobin: I know what we are trying to do. We are trying to avoid amendments, so that we do not have to go anywhere else.

Sen. Panday: Subsequently, we shall come and tidy it up.

Sen. Dr. Balgobin: So for the avoidance of doubt, when we say “subsequently”, what does that mean?

Sen. Panday: The Government meets FATF, as the Attorney General indicated, sometime in June. When we meet them in June, all these issues will be brought to their attention, and whatever recommendations come out of it, we shall return to the Parliament—

Sen. Dr. Balgobin: Would you not want to clean up these things before that?

Sen. Panday: We do not have the time.

7.35 p.m.

Sen. Al-Rawi: May I, just for the record, know this, I understand that we are all on the same page, through you, Madam Chairman, to the Independent Bench. I do accept without question at all the undertakings on the Government Bench. I am sure that they understand what we are talking about.

Sen. Panday: Indeed.

Sen. Al-Rawi: I think that it would be apposite to our best use of time if you had the benefit of having the FATF discussion first, and then whatever discussions by way of specific recommendations we can then come back to conduct the review as the Act contemplates under section 28, so I understand that is what you are saying.

Sen. Panday: Indeed, that is what we are saying.

Sen. Prescott. SC: So forgive me for prolonging it.

Sen. Panday: Pardon, Senator.

Sen. Prescott. SC: Clause 11 insofar as it affects 12(1) will continue to read, “where a financial institution or listed business”?

Sen. Ramlogan: The answer is yes, sure.

Question put and agreed to.

Clause 11 ordered to stand part of the Bill.

Clauses 12 and 13 ordered to stand part of the Bill.

Clause 14.

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

Sen. Dr. Armstrong: On 14, I am just a little puzzled by when it says words “Tobago,” the distinction—

Madam Chairman: Could you put your microphone closer to your mouth please?

Sen. Dr. Armstrong: Is the distinction simply between the comma and the semicolon? What is the—it says “deleting the words ‘Tobago’ and substituting the word ‘Tobago’—sorry, is the comma treated as a word or—?”

Sen. Panday: Hon. Senator, we had intended to insert paragraph two, (c)(ii) in clause 14, and hence the punctuation had to be changed.

Sen. Al-Rawi: I think that the issue that is being asked is, why remove the word “Tobago” and replace it with the word “Tobago” and I know the answer to be, to remove the comma which is after—and have to remove it.

Sen. Panday: And put a semicolon.

Sen. Al-Rawi: Yes.

Sen. Dr. Armstrong: Okay, all right.

Sen. Al-Rawi: It just means by which you remove the comma.

Sen. Dr. Armstrong: Okay, fine.

Sen. Panday: Old English.

Question put and agreed to.

Clause 14 ordered to stand part of the Bill.

Sen. Al-Rawi: Madam Chairman, may I just for expedience sake, unless there is any strong objection, humbly recommend that we take as many sections as we

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can, en bloc, because we do understand that we are coming into another point? Yes, so if we took—

Sen. Panday: We concur and we agree with you.

Sen. Al-Rawi: We could take safely to 20 and take all.

Sen. Panday: Because of the situation that we are in.

Clause 15.

Question proposed, That clause 15 stand part of the Bill.

Sen. Baptiste-Mc Knight: Has clause 15—so what happens to 15(b) and (c), those remain at odds with each other?

Sen. Panday: 11, 12, 13, 14, 15, we are at 15.

Sen. Ramlogan: I understand the point—I will talk to her.

Question put and agreed to.

Clause 15 ordered to stand part of the Bill.

Clauses 16 to 20 ordered to stand part of the Bill.

Preamble approved.

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

Senate resumed.

Bill reported without amendment.

Question put, That the Bill be now read the third time.

Sen. Panday: Madam Vice-President, this Bill requires a special majority and hence I call for a division.

The Senate divided: Ayes 27

AYES

Panday, Hon. S.

Sandy, Hon. Brig. J.

Ramlogan, Hon. A.

King, Hon. M.

Bharath, Hon. V.

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Baptiste-Cornelis, Hon. T.

George, Hon. E.

Abdulah, D.

Maharaj, D.

Watson, Prof. P.

Moheni, E.

Moonan, R.

Bhagaloo, K.

Gray-Burke, B.

Tota-Maharaj, Dr. V.

Hinds, F.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

Browne, M.

Ramkhelawan, S.

Drayton, Mrs. H.

Balgobin, Dr. R.

Ramkissoon, Prof. H.

Prescott, SC, E.

Armstrong, Dr. J.

Henry, Dr. L.

Mrs. Corinne Baptiste-Mc Knight abstained.

Question agreed to.

Bill accordingly read the third time and passed without amendments.

7.45 p.m.

CENSUS (2011) (EXTENSION AND VALIDATION) BILL

Order for second reading read.

The Minister of Planning Economic and Social Restructuring and Gender Affairs (Sen. The Hon. Mary King): Madam Vice-President, I beg to move,

That a Bill to provide for the extension and validation of the census taken pursuant to the Census (2011) Order, 2010 and matters related thereto be now read a second time.

Madam Vice-President, the Census (2011) Order, 2010 was approved in the House of Representatives on November 19, 2010 and approved in the Senate on November 23, 2010. The Order was however published on March 11, 2011 by Legal Notice No. 33 of 2011. The data collection began on January 09 and was due to be completed on February 20, 2011. The aim of the Central Statistical Office is to get 100 per cent coverage of the enumeration districts with a response rate of above 90 per cent. However, because of many challenges that have surrounded the census taking, it has become necessary to extend this very important national exercise until May 11, 2011 and to validate the census. The present Bill has now, therefore, been put before the Parliament.

Madam Vice-President, I think I should explain some of the main challenges that we have had, some of the main challenges which have made it necessary to extend the time frame for the housing census 2011. First of all, we have had a high turnover of field personnel. There were dropouts among all levels of the field staff, including the technical area supervisors, the supervisors, the editors and, most significantly, enumerators. These officers, therefore, were unable to continue with the exercise because of, among other things, ill health, family commitments, acquiring more permanent and meaningful employment, attending classes as well as their inability to cope with the workloads as they had misjudged the level of commitment required—

[MR. PRESIDING OFFICER *in the Chair*]

—as well as the amount of work for which they would be responsible, and, frustration after repeated visits to many homes and not being able to find the respondents at home. There was a steady and continuous turnover throughout the entire exercise.

We had some tertiary level students who applied to work on the census when the initial date was set for May 2010, because they had expected to be on vacation. Therefore, they found that it was not possible, given the new census

dates, to manage their class schedules and to do enumeration. Some persons who attempted to work on the census and study, or, who did not disclose at recruitment that they were fully or part-time employed faced serious challenges in not being able to properly utilize the evenings, which was critical to the reduction of the number of callbacks and people not at home, and a few had to be terminated obviously for poor performance.

Zone coordinators were permitted to select and recommend field staff at the lower level for elevation to higher levels at supervisory positions. A reserve list, Mr. Presiding Officer, of enumerators was used to fill vacancies left by these enumerators who had dropped out of the exercise. Some persons on that reserve list who were approached were also not willing to work outside of their areas where they lived, or, were not willing to work in areas which they considered to be unsafe. Some areas, therefore, were heavily oversubscribed while others were severely undersubscribed.

Mr. Presiding Officer, we are all aware that we do have crime hotspots. Several crime hotspots were to be found in enumeration districts (EDs) in Zones I and II. Several of the workload assignments were not able to start on schedule due to open gun battles among rival gangs. This happened many times. Enumerators were not able to venture into, and, canvas these enumeration districts. Some enumerators, fearing for their own safety, abandoned the exercise and again replacements had to be found.

This recruitment was made even more difficult since persons from within the area had to be found to undertake the enumeration in these crime areas. On the advice of the police, Mr. Presiding Officer, certain enumeration districts were left for later into the census enumeration period when it was hoped that the situation would have returned to some semblance of normalcy and these EDs were being enumerated by teams of enumerators who have already completed their own workload assignments, or, by teams of highly experienced specialist enumerators who are not afraid to undertake the assignment.

Another challenge we encountered, Mr. Presiding Officer, was the “no contact”. Single-person households as well as households in which all members are employed have posed serious challenges to the enumerators. This has been a common problem in many zones. Enumerators have made repeated visits at different times of the day and even late into the evening without success. Additional time is needed to pursue callbacks; households where the enumerator has actually made contact with a respondent and they have indicated that they were not available to conduct the interview at that time, and, to pursue “not at home” dwellings where no responsible adult of the household was able to give an interview.

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So these are things which have posed challenges, Mr. Presiding Officer. We even have supervisors visiting areas late at nights in an attempt to make initial contact to set appointments. This is very time-consuming as a contact first has to be made and this situation would also result in further delays in our data collection as the appointment is based on the availability of the household and not on intercept.

Of course there is the issue of unwillingness to cooperate. Households in gated communities and high-income areas are proving to be the most difficult to complete. Enumerators have been unable to gain access to unguarded gated communities. Where guarded, Mr. Presiding Officer, the security personnel have been unwilling to provide any contact information whatsoever and in some cases enumerators have reported seeing doors and windows open, hearing televisions, yet no member of the household would respond to their calls. So at this stage—

Sen. Hinds: They do not trust the Government.

Sen. The Hon. M. King: I did not hear, but I do not wish to hear. [*Laughter*] At this stage, Mr. Presiding Officer, our completion status to date: we have in Zone I which is Diego Martin to Port of Spain, 88 per cent of all households have been visited and 76 per cent have been completed; Zone II which is San Juan/Laventille, 88 per cent visited, 79 per cent completed; Tunapuna/Piarco, 100 per cent visited and 88 per cent completed; Arima/Sangre Grande, 100 per cent visited and 93 per cent completed; Mayaro/Princes Town area, 100 per cent visited and 97 per cent completed; San Fernando/Penal/Debe/Siparia, 91 per cent visited and 83 per cent completed; Chaguanas/Couva/Tabaquite/Talparo, 100 per cent visited and 97 per cent completed and in Tobago we have visited 100 per cent of all homes and 93 per cent is completed.

So our main areas, Mr. Presiding Officer, which we still have to complete are Port of Spain East; Cocorite; Ellerslie Park; Federation Park—I am saying all of these for a reason, Senator—Bayside Towers; La Fontaine, Westmoorings, The Towers, Westmoorings, La Riviera, Westmoorings, Marine Villas, Westmoorings; Harbour View at Westmoorings; St. Lucien Villas and One Woodbrook Place.

In San Juan/Laventille, we have one ED which remains to be done, Cantaro Village, San Juan; La Canoa we have two EDs still to be done and in San Fernando a few EDs. I think three or four EDs are currently to be enumerated.

Mr. Presiding Officer, some households have indicated that they were not enumerated, so the CSO has placed this ad in the papers to invite people who have not been enumerated [*Sen. King indicates*] to contact our offices so that arrangements can be made to have the enumeration done so that we can have as near to 100 per cent as possible.

Sen. Deyalsingh: What has the response been to that ad? Have people actually called and said, “please come”?

Sen. The Hon. M. King: At this stage it is not the response that we expect and that is why we are now repeating here for the national population to understand this is a very important exercise, and, we are giving them the choices, Mr. Presiding Officer, that they can be enumerated at their workplace, they can self-complete a questionnaire that we would leave with them and collect, they can complete the questionnaire online and they can visit the Census Office at 30 Park Street. The telephone numbers are 624-7001, 623-9992, 624-3580 and 623-4315.

The census is very important and we are asking those areas that are not yet enumerated to please get in touch with us. So the extension of the census is required to factor in also a post-enumeration survey. The post-enumeration survey is a small, independent sample survey of households enumerated in this population and housing census and it is used to evaluate the results of the census. It actually helps us to estimate the extent of under-count errors, where persons may have been omitted during the census enumeration period or persons who were not present in the jurisdiction on census night are taken up.

So we use that post-enumeration survey also to assess the quality of the reporting of the characteristics of persons provided to the enumerators during the enumeration exercise. So a sample of approximately 4,500 households from a sample of enumeration districts across the country would be revisited and asked a few questions which were actually asked in the census, so we can assess the quality of the work that we have already done. This post-enumeration census is to be conducted during the month of May throughout Trinidad and Tobago.

With these few words, I beg to move.

Question proposed.

8.00 p.m.

Sen. Dr. Lester Henry: Thank you very much, Mr. Presiding Officer. I rise to make a brief contribution on this census adjustment Bill. I will try to focus on a lot of the problems that I think were inherent in the way this census was organized, the timing of it and some of the problems alluded of by the hon. Minister.

Now, I also would like to draw the attention to the national public to what really happened, what really went wrong and why we have to have this extension now. My information, for example, is that—I do not want to be malicious or

overly negative in any way, but I would like to get some answers in terms of, did the Minister ignore the advice of senior officers of the CSO, and perhaps others, who warned against doing the census over the Christmas to Carnival period? This was always a period in which there would be difficulty getting anything done in Trinidad and Tobago. Culturally, we know this.

Many of the problems that emerged, that caused the delay and caused us to have to debate this issue tonight, perhaps, surround the interruptions and the festivities that took place as we all would have expected and we all are familiar with during the Christmas to Carnival period. I believe the census was initially set to be done sometime between May and August—sometime last year when the election interrupted and so on.

Given our cultural proclivities, was it really a wise decision to try to get this done, and also the problems of the enumerators that the Minister outlined? I think whereas we could see that a lot of it was obviously true and we know the problems that she outlined, there are several other things that I think may be worth noting.

One problem is, were the enumerators who left, were they paid and did they leave because they were not paid? Many of them who are expected to continue the work that is left to be done, can we be assured that they were paid on time and this was not one of the problems? The Minister did not really address this issue in her presentation.

Another problem that we had with the enumerators, of course, is that initially they just did not hire enough. Apparently the numbers were way too low, and that is another reason we are here tonight and the census not in any way being completed in the initially proposed time. So it would be useful if the Minister could address some of these issues when she winds up, because part of the information reaching me is that:

1. Many of them were not paid. What was the reason for it? And;
2. A lot of them—well, there just were not enough of them and you ended up having all kinds of problems.

Also, the initial training of the enumerators was done way too early. It was done before Christmas, I believe. By the time they came back after the Christmas holidays and so on—some of them, you know—what did they say again back then? Because “after we drink and have fun over the Christmas holidays” and by the time they were ready to hit the ground a lot of them basically forget what they were told. Again many people apparently tried to advise the powers that be that this was not the right way to operate, but yet they forged ahead.

Another big problem the enumerators had was the problem of access to people's homes and so on. Some of it was outlined. I will get back to that again later. But part of it was, a lot of people were not aware that the census was actually taking place. It raises questions as to whether the advertising budget for the PR leading up to the census was sufficient. My understanding is that it was way insufficient in terms of the number of ads and the kind of publicity you had to generate to really get a lot of people—reached down there among the grassroots. I even understand that there was a plan to have big trucks in the rural areas that may not have cable to see all the ads on television and so on—big trucks and flyers handed out, passing through rural communities announcing the census and so on, raising awareness of it and the hon. Minister cancelled this.

So a lot of the rural communities that did not see the census advertised on television and so on, because they do not have television or cable, or whatever, they just were not aware that this thing was going. So when people came to their homes they were like, "What are you doing? Who are you representing? What? And this created all kinds of problems. So apparently the budget for the advertising and raising of public awareness of the census was significantly less than it should have been.

Some of these things happened because a lot of senior people at the CSO have been sidelined and left out of the census process altogether.

Sen. Hinds: Is that right?

Sen. Dr. L. Henry: I would like to be corrected if I am wrong. I do not have a problem with that but that is what I understand.

Sen. Hinds: Oh!

Sen. Dr. L. Henry: Also, if you sideline many of the senior people, the people who have the experience in conducting these censuses and so on over the years, you must run into problems.

Sen. Hinds: But why would they do that?

Sen. Dr. L. Henry: And you had a lot of delegation of different aspects of the census taking place with different groups and you also had coordination problems. So these are some of the problems that apparently led to the incompleteness of the census on time and hence the reason we have to debate this Bill tonight for the extension.

[MADAM VICE-PRESIDENT *in the Chair*]

The Minister mentioned the access to gated communities, the well-off places and she called them out, including places like Westmoorings, Bayshore and so on. I think maybe we should have some formal way of addressing this in the future and maybe we could think about making the census a mandatory thing for citizens to participate in. The hon. Minister did not mention this, but I think it is something we should consider, because given the importance of the census for national planning and so on, as all of us in this room are fully aware, we should perhaps consider because we cannot have this sort of thing taking place.

Many of these people in these communities that the Minister referred to are the first ones to say how backward we are and we do not know this and we do not do proper planning and so on. A lot of these same people buy houses in Miami and so on, because they think that is a model community over there. A lot of these same people who would not—so I sympathize with your efforts in this regard in getting these people to cooperate. I understand you even left flyers in their boxes or forms and so on and they completely ignored you—and they still continue to. So this is a major shortcoming that we should address.

Before I close and wrap up here, I also would like to take this opportunity, as today is Tuesday and there is a possibility that we may meet on Friday or next week—I want to congratulate my dear friend and colleague sitting there, he was in the Chair just now, Sen. Prof. Patrick Watson, on his first inaugural professorial lecture this coming Thursday.

8.10 p.m.

Before somebody jumps up and says 35(1)—

Sen. Hinds: What is he speaking on? Is it to stimulate the economy?

Sen. Dr. L. Henry: His topic is “Data Deficiency and Development: An Unresolved Caribbean Dilemma.” I am not off-track, so no need to pull me back. I raise that issue not only to congratulate Sen. Prof. Watson but to emphasize the importance of the census and that we, as academics and researchers and so on, have this particular problem in the Caribbean with people not understanding the relevance and how critically important these things are. I am sure Sen. Prof. Watson would give a very good elucidation of that come Thursday. I can assure him I will be there to listen to him.

I also would like to end with the warning I gave on the first occasion on November 23 when I said a few words on that occasion as well, that the census is critical; we know that, but we want to make sure that it is done properly, and I do

not want to have to be coming back here a year from now—I said that in November, so half the year has gone—asking what has happened to the census of 2010.

With those few words, I thank you. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Madam Vice-President, thank you for giving me the opportunity to speak. It is 8.11 p.m. and I expect to be finished by 8.13 p.m. There are two observations that we should make about this census. The first is that there have obviously been some significant methodological challenges in rolling this out. That said, I think it presents, and has presented, a significant opportunity which, it would appear, the Minister has taken advantage of, to refine the approach for data gathering and data collection. I can only support the measures that she is proposing to take and want to suggest that we try to build and retain this capability in the Ministry and in the CSO, going forward; use pilot studies and so on, to sort of pressure-test the methodology and give interviewers a real taste of what the experience is going to be like. It is not 8.14 p.m. as yet; I have all of 8.13 p.m. I started in the middle of 8.11 p.m.

The second and final point is that I would appeal to the national community for support with regard to the census. I think it is often said but people do not often understand how important a census is for a government to decide where they are putting hospitals, police stations, schools and we need to know where to put services so that we can provide the best possible care and support for the people of Trinidad and Tobago.

So I would ask—and I think I can speak for all of my colleagues here—the national community to support the census, to really avail themselves, each and every citizen, of the opportunity to have themselves counted as a part of this very important exercise so that the needs of the citizens of Trinidad and Tobago can be better met. I would encourage the citizens of the Republic, as well, to keep in mind that we must live with these results for up to 10 years and, therefore, we only have the one opportunity to get it right.

I fully support the Bill put before us. Thank you, Madam Vice-President. [*Desk thumping*]

Sen. Prof. Patrick Watson: Madam Vice-President, I will also be brief and I thank Sen. Dr. Balgobin for saying half of what I wanted to say, that we should fully support this census. It is an important exercise. My only regret now is that we are late into the evening and we do not have the press here so we are not likely to see ourselves in the newspapers tomorrow making this appeal, which I think is extremely important, but I do hope that those who look at us on television bear it in mind—and if they are looking and they have not allowed the enumerators to come inside—I want to assure them that it is very safe and they should allow them to come on in.

I notice that the area where I live has been 100 per cent censused and 97 per cent complete, which I think is a very good thing. It is an extremely important exercise. I want to remind people at this time of Easter, the Easter story is in some respect the end of a story that began with a census, in the sense that the Holy Family had to walk from one place to the next in order to be censused. That is how bad it was in those days, but how important even then we understood the importance of census taking to be, of counting the population, of knowing of our needs, of knowing what we lack and all of that.

I do recognize some of the problems. People frequently feel that they have no time with people who come to the doors. People suffer from enumeration fatigue. I know that. I am saying this from the point of view that I, myself, am part of a community that goes after the collection of data and I have had to deal with this issue of non-response. From that point of view, I want to ask this honourable Senate to support, because notwithstanding some of the points that Sen. Dr. Henry may have made—and I am not too sure about how true they are, but I have no doubt that he did his research well—even if those were problems, the problems that Sen. King alluded to are cogent reasons, to the extent that people call and you are not at home and they return. I have seen them working on Saturdays and probably on Sunday as well. The census takers have been working very, very hard in this exercise.

It is not an easy matter and I want to encourage the Senate not to have any second thoughts about supporting this Bill to extend it, because, as was pointed out to you by Sen. Dr. Henry and Sen. King, this is an exercise that takes place every 10 years. In fact, in this current situation, this is the 11th year, because the 10th year was interrupted by a call for an election. In fact, while we were out campaigning we ought to have been undertaking the census at that time. There was disruption following—

Sen. Abdulah: A different kind of census.

Sen. Prof. P. Watson: Yes. My colleague is telling me that another type of census took place, and so be it.

I really want to say then that, given the fact that we do this every 10 years, it is extremely important. For those who do not know about it, we determine very important things like the status of health of people, the education of people; we determine where people live; we determine, therefore, the places that may need community centres and things like that, and we determine, very, very,

importantly, the age distribution of the population; how much money we have to spend on pensions, for instance. So we need to do these kinds of things and we want that they be done properly.

I want to close on a somewhat related matter, in that the Central Statistical Office, Sen. Dr. Henry referred to some problems that he mentioned—and of course, I may discuss this on Thursday and if you want to hear more, you could come and listen to it. There have been several attempts to reform what I would call the national statistical system in Trinidad and Tobago, of which I would like to view the Central Statistical Office as the hub, and in many respects some of you may know that a serious exercise was undertaken a few years ago by Statistics Sweden and recommendations were made to convert the Central Statistical Office into an executive agency and to take it out from under the tutelage of the Ministry of Planning, Economic and Social Restructuring and Gender Affairs, and it is something that we are going to have to give serious consideration to.

So, once again, colleagues, in closing—it is getting late—I want to encourage the community as a whole in this country to support this extension and to support the census. Those of you who have been refusing to have the enumerators come to you, please do not do so. We want to have this 100 per cent successful and I want to, again, implore this honourable Senate to support this extension.

Thank you very much, Madam Vice-President. [*Desk thumping*]

Sen. Faris Al-Rawi: Thank you, Madam Vice-President. I have noted that we have truncated contributions and I, too, intend to truncate it. I need to first ground my relevance, because, regrettably, some of what I am going to say is going to be a little hot under the collar.

We are, of course, here to debate a Bill entitled “An Act to provide for the extension and validation of the census taken pursuant to the Census (2011) Order, 2010.” Madam Vice-President, as you are well aware, this relates to the Statistics Act, Chap. 19:02, and we were here, I believe it was November of last year, piloting the original motion to deal with the establishment of the Order for the census and, in doing that, regulations then followed, and I believe that the census 2011 regulations were passed, and the regulations, in particular, ground the scope of this particular debate.

It is axiomatic that data is the thing which drives the social services delivery in this country. We must peg ourselves to that data. Censuses have been undertaken in Trinidad and Tobago as far back as 1844, I have seen, and they were taken in batches of 10 years, beginning 1844; we then went 1851, 1861,

1871, et cetera. The only point in time where there seems to have been a hiccup in the cycle of 10 years and then we moved to 11, was, in fact, in 1939, and then the census was taken soon after the war. There was that war period of World War II when there was a hiccup in the census taking.

Validations and extensions are a normal part of life and Trinidad and Tobago has certainly developed somewhat since then, and one could argue that the current criminal element in Trinidad and Tobago is a war that the country is facing, so that the dilemma that we are facing is no different, perhaps, from the hiccup experienced in census taking in 1939.

That said, the regulations prescribe that for the purpose of the census, the director of statistics shall divide Trinidad and Tobago into enumeration districts and shall prepare a detailed description in writing. It also prescribes, in the Schedule, the particulars to be furnished on the taking of a census. The Schedule speaks to every inhabitant of a building or dwelling, speaking to the type of building material, tenancy, rent paid, type of lighting, the number of rooms, access to Internet, environmental issues. And in respect of every person: name; relationships. The whole fabric of our society is set out into seven headings which speak to the entire environment of our communities in enumerated districts.

We have heard the hon. Minister of Planning, Economic and Social Restructuring and Gender Affairs tell us that problems were experienced in the collection of data, particularly in certain districts in Trinidad and Tobago, and we accept that problems do arise. The difficulty, I would think, is exacerbated by recent experiences which we must speak to. This was alluded to earlier in the course of today's proceedings when my learned colleague, Sen. Hinds—he did hold up the very tragic difficulties experienced by the persons—

Sen. Panday: “Yuh doing that again?”

Sen. F. Al-Rawi: Yes. Regrettably, this is a very important issue which impacts upon census taking. [*Desk thumping*] You see, persons who allege—and I say allege—that they have been in occupation on a continuous basis for a period of 30 years are entitled in our laws, depending upon the type of land that they have been in possession of, potentially to prescriptive rights.

8.25 p.m.

Now, I had the honour to serve my country in part in a short experience at the board of the HDC. Madam Vice-President, whilst I was there I was involved in the planning that went into the balancing of rights on one hand in making best use of accelerated housing which is desperately needed in Trinidad and Tobago and

which the PNM put as a very high target on its agenda in delivering an estimated target, at first set at 10,000 homes per year and perhaps 7,000 homes per year being delivered. [*Desk thumping*] But in doing that I can speak with certain knowledge myself that the first thing that the HDC did was to identify the lands in its portfolio.

Secondly, it sought to acquire lands to supplement its portfolio; and thirdly, it in conjunction with a sitting agency established by the United National Congress called the Land Settlement Agency which is an auspices of the Ministry of Housing, engaged in squatter regularization and in land usage betterment together with international foundations and indeed international financing through the Inter-American Developmental Bank (IDB).

What was done there in a proper functioning board environment was firstly to set up land usage and to make sure that if you were going to impact upon any community—and communities are impacted and therefore census statistics come from these communities—that you would first of all make sure you had a societal impact-assessment in relation to communities.

Now, Madam Vice-President, I would imagine that the hon. Minister's crew which was established under the enumeration districts to collect data would have experienced problems and dare I say now that we validate the experience to go out and collect more data, that they are sure to experience problems in the Pineapple Crescent community [*Interruption*] and in several other communities as well. You see, I must put the Government upon notice, and this is no laughing matter and I am sorry to disturb the very cooperative air in this Senate, but we as an Opposition must speak to the ills of citizens of this country.

The census is going to be negatively impacted from a crime perspective, from a sheer anger perspective, by the social devastation that we saw unleashed upon the citizens of this country at the hands of the People's Partnership, at the hands of a very experienced Minister perhaps because his Ministry falls under him, and the hon. Minister of Housing and the Environment is an experienced and veteran politician and the hon. Minister of Food Production, Land and Marine Affairs is an even more experienced and veteran politician. Regrettably, what we saw was at highest a comedy of errors and at lowest a betrayal of sacred trust and vested faith into this Government [*Desk thumping*]

I am compelled to reflect upon the *Guardian* and *Express* newspapers. The *Guardian* has, and my learned colleague Sen. Hinds showed it to this Senate [*Interruption*] It is okay, I have it, but I have it in a more printer friendly version. The *Guardian* says—and it is red so it will not flag the attention of certain colleagues of mine—“Bulldozed Acres of crops destroyed in Mausica, Egypt Village.”

The *Express* in fact carries the headline—[*Interruption*] it is being said that the party symbol should be changed to a backhoe, Madam Vice-President. I do not think that is to be encouraged. Seagulls may do [*Desk thumping*] but we have to face the reality of the “Food Face-off” because this is even more important. It is the *Express* headline that drives to the heart of some of the material that censuses are meant to encourage because we are looking at infant mortality, we are looking at longevity, we are looking at housing; perhaps there were houses on the farming sites, as you know there are mixed land usages that people enjoy in this country.

The *Express* has it correctly “Food Face-Off” and what is the *Express* article referring to, Madam Vice-President? It refers to the very open and naked conflict between the Minister of Food Production and the Minister of Housing. Two extremely intelligent, well qualified and veteran politicians of this Parliament are in an open and naked face-off without any form of coordination and this Government has stood to tell us “Serve the people, serve the people” and left out the fact that they are serving them with a backhoe.

The *Express* says—and I wish to convey some of the agony which will affect a census validation extension. Listen to the agony in the words that the *Express* has provided for us. Madam Vice President, I quote here from the Trinidad and Tobago *Express* of today’s date.

“Sookoo said:

‘The bulldozers just started to run through the farmers’ holding, destroying over 40 acres of sweet potatoes, acres of pineapple, and as we go down to the back you will see acres upon acres of cassava.

Where is the respect for the farmers on the land? It is this Government who stated in one of its six development pillars in its manifesto is the development policy for agriculture...Why it is we continue to put the policy for housing as a priority? Where is the policy for agriculture?’ Sookoo said.

Terrance Haywood, president of the National Food Crops Farmers Association, who was also at the site, condemned the actions by the State. He said on March 16, a meeting was held between Moonilal and farmers regarding the lands. Haywood said at the meeting Moonilal”—and of course they are referring to the Minister of Housing and the Environment—“indicated the Government intended to build houses on the land.”

Sen. Hinds: And he is fat and well fed, “eh”.

Sen. F. Al-Rawi:

He said they disagreed with Moonilal, telling him they believe the lands were best suited for agricultural purposes.

“He (Moonilal) said he would get back to us, but he hasn’t got back to us. I have written letters to the Prime Minister,—the Prime Minister—‘Mr. Moonilal and Mr. Bharath and have not gotten a response. Look what happened here today. Look what they did to us... They ambushed us in the night. They came like a thief in the night,’ Haywood said.

Crops were also destroyed on farming lands belonging to the State at Endeavour in Chaguanas.

Shiraz Khan, president of the Sheep and Goat Farmers Association,”— people who we were taking census data from—“who visited the site, condemned the action, saying that the heavily-armed police officers could have been used to fight crime throughout the country.

Khan said, ‘You seeing dozens of policemen with sub-machine guns with security guard, a Muslim and Imam of a mosque is also doing security here, so much security and when thief raiding doubles man in Chase Village and in Chaguanas, we can’t get no police. But today, they could bring police with machine guns to watch people as they crops get bulldozed. Is that what we vote for?’

Farmer Khan Kabesingh was brought to tears as the bodi and pumpkin—in which he invested more than \$100,000—were destroyed within minutes. He said his bodi crop was fully grown and was expected to be reaped yesterday and taken to farmers’ market. He added that farmers were betrayed by Minister Bharath who recently made a promise to them.

Kabesingh said, ‘My crop ready to reap there, before my eyes and I couldn’t do nothing. That’s for a man to kill, not only to cry. And somebody have to be responsible for this. And you know what is so hurtful? After speaking to the Minister of Food Production Vasant Bharath and Mr. Fletcher who walked through here with us and see everything and give us the assurance that nothing will be interfered with, and today this is what we face.’

Another farmer condemned the action of the Government, saying that such actions could only fuel the out-of-control crime situation.”

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The very obstacles to status data collection that the hon. Sen. Mary King spoke to.

Now I know we have had a cooperative day, Madam Vice-President, but you are hearing the cries of the people of Trinidad and Tobago [*Desk thumping*] who have expressed that they have been betrayed by this Government.

8.35 p.m.

The same Government Members who were sanctimonious to stand when a judgment was given by the High Court of Trinidad and Tobago, to say that the LSA had taken unlawful actions, the same Government who said, “We are watching and we are learning by the judgments delivered in the High Court of this land.”

Madam Vice-President, what have we seen? Do you want to know why your census is delayed? Your census is delayed because the need for validation arises out of a result of another broken promise by this Government. [*Desk thumping*] What are we going to say? Which one of them is going to stand tonight, beat their chest and say “done”? Is this what we are going to get, the “done”, “delivered”? What have they delivered in terms of census? Fear, chaos, derogation of rights potentially! Now, that is not to say that an investigation of the propriety of rights is not to be had, but it is trite law, and an excellent attorney sits opposite me in the person of the Attorney General, the titular head of the Bar, who knows that self-help is not the correct help when it comes to possession at law. [*Desk thumping*] It is frowned upon by the courts of this land. It is laced in the jurisprudence.

Madam Vice-President, we have just debated the fact that we must give notice to people. It is a feature of the pre-action protocols prescribed by the learned Chief Justice, that before you seek to take action you must write to the other side, inform them of what you are intending to do. You must learn. You can read the minutes of the HDC board—while I sat there—and you will see that social impact surveys were done into communities where people had no legal rights, but we accepted that we could not treat them like dogs and animals. [*Desk thumping*]

Sen. Hinds: Well put.

Sen. F. Al-Rawi: We had to listen to the humanity of the situation.

Sen. Hinds: Sinful.

Sen. F. Al-Rawi: This Bill is a derogation of rights under sections 4 and 5 and relies on section 13. It calls for a division, because we are dealing with the rights entrenched in the Constitution as they relate to privacy. [*Crosstalk*] Dare I say,

that the rights are also—Madam Vice-President, I will take my beating as a man. When the Attorney General stood and beat the appointments in the last debate, I said to him, “I concede you are right—but you are in Government. What are you doing now?” I was not there to make the ill-advised appointments if they were so.

You must listen and not be upset, Sen. George, when you listen to the cries of the people, because this is what we need to listen to. This affects the very Bill that we are debating right now. [*Desk thumping*] It is relevant, it is germane and it affects the validation exercise. The right to property is entrenched in our Constitution in sections 4 and 5.

Madam Vice-President, I know that hon. Vasant Bharath could not be the man who instructed this. I am sure that it could not be him. [*Interruption*]

Sen. Hinds: He is not close to the Prime Minister.

Sen. F. Al-Rawi: I witnessed, but I gave him the privacy quickly, that he was on the phone answering telephone calls from reporters when they called, because that is the kind of man he is. He will stand and deal with the issue. I have never seen him run. But where is the Leader of Government Business in the Lower House? He is on a plane to Brazil, on a jet leased at the taxpayers’ dollar. [*Interruption*]

Sen. Panday: On a point of order! On a point of order! He is not on any plane to Brazil. My instructions are that he is in England.

Sen. Hinds: Oh, he has gone to London to meet with the Queen.

Sen. F. Al-Rawi: Madam Vice-President, if that is the case, I humbly withdraw the point. I was told in the newspapers that he was on a jet on his way to Rio. So, in fact, he is on a jet on his way to London. The point is that part of the problem that we are facing, clearly, any responsible board of directors at the HDC could not have authorized the kind of actions that we saw. But it must be because of newness, because I wish to remind the national community that that board has only recently been installed.

The People’s Partnership has not completed its installation of members to boards of directors and the HDC received its members to its board of directors very late, so what did they meet? In the debate on the economy and in the budget, I am on record in this *Hansard* as warning that the HDC’s land bank was at low level. Had they bothered to listen to what I said, they would not have to go and bulldoze communities overnight to build houses, which is not laudable. They would not have to have done that because you could have planned your land

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usage accordingly, but where is the stimulation in the economy? The Prime Minister has said that she has gone to Brazil, and one of the measures that will be reaped from the Brazilian point is the agricultural input.

So while she is going abroad, again, to look for agricultural opportunities, her Ministers are bulldozing through their agencies for which they bear responsibilities—are bulldozing crops. [*Interruption*]

Sen. George: Everybody on the breadline. So I—[*Interruption*]

Sen. F. Al-Rawi: Madam Vice-President, do I need your protection to have silence to speak? [*Crosstalk*] I would not bother to ask. I am sure that my colleagues can take the pepper. Even if you bulldoze the crops of peppers, you must take the pepper because it is your turn in Government. [*Desk thumping*] You are holding the mantle, and if you want to have a sensible result from your statistical information—and the survey is a critical point.

Madam Vice-President, I hear some of my colleagues, whilst I am on statistics, make sole contributions by way of crosstalk in this Parliament, will not even stand to condescend to contribute on Bills. [*Interruption*]

Sen. Ramlogan: Sen. Hinds just contributed.

Sen. F. Al-Rawi: Do you know what is unfortunate, Madam Vice-President? [*Interruption*] I will come back to that point on statistics of contribution shortly.

The Minister of Housing and the Environment, the hon. Dr. Roodal Moonilal—I downloaded this from the website. The only thing that has been changed on the HDC website is the addition of a speech by the hon. Dr. Roodal Moonilal. The Ministry’s appellation is still the old ministry. Pre-May 24, 2010, they did not bother to change the website, the information, nothing. I had to look twice to see if hon. Dr. Emily Dick-Forde was still the Minister, but much to my surprise what did I see, a lovely picture, a large picture of Dr. Roodal Moonilal. He is now an attorney-at-law, a member of my profession. What does he speak to?

He posted his speech, “Message to all Staff, Ministry of Housing and the Environment”. That is the Ministry’s name, Ministry of Housing and the Environment there, but elsewhere it is not that. On the same website he says:

“As we look back on 2010”—he is looking to—“an assessment of our achievements and progress over the past twelve months. Following my assumption of office on May 28, 2010”—hardworking man, four days after

May 24—“the Ministry saw realignment in its portfolio, now encompassing the various components of Housing and the Environment. The Ministry sought to consolidate its various departments, intra-Ministerial divisions—the Environmental Planning and Policy Division (EPPD), the Forestry Division, and the National Reforestation and Watershed Rehabilitation Programme, as well as the various board managed agencies under its purview, including the Housing Development Corporation (HDC), the Environmental Management Authority (EMA), the Chaguaramas Development Authority (CDA), the Community-Based Environmental Protection and Enhancement Programme (CEPEP), the Land Settlement Agency (LSA), the Sugar Industry Labour Welfare Committee (SILWC).”

—boasting of its coordination of all of these aspects. This is what you call an “Id” statement, rooted in the “I” and in the ego.

He goes on to talk about:

- “• Nariva Wetland Restoration...;
- Meaningful legislative changes to Green Fund Act...;
- The continued major participation in international environmental fora...”

Fancy words when you judge him by his actions. Where is the coordination between the HDC and the Ministry of Food Production, Land and Marine Affairs? Where is the coordination with the environment? Where is the coordination with the people whom he is representing?

Do you know where the nexus is, Madam Vice-President? In a bulldozer. [Interruption]

Sen. Hinds: Higher prices.

Sen. F. Al-Rawi: In a bulldozer razing the crops from the ground owned by people who say they voted for him. [Interruption]

Sen. Hinds: Sinful.

Sen. F. Al-Rawi: Driving food escalation up. Economy not only stalled, but he is single-handedly driving inflation in the basket. [Desk thumping] You want performance? I am angry at this treatment. I do not care who stands behind me to say PNM this and PNM did that. I heard comments about being sanctimonious. Do you know what? It is my first time in this Parliament and I take umbrage on behalf of the people of this country who voted for the People’s Partnership. [Desk thumping]

Madam Vice-President, our census validation exercise is frustrated by my learned, the hon. Sen. Mary King's own colleagues, sitting on her own Bench, and they dare to talk about fractures. Talk is cheap, writing is even cheaper. Speeches of megalomania and Id factor rootings as to a man's personal ability to pull together interministerial and subagency coordinations are meaningless if you are going to raze production. The precedent exists in the Housing Development Corporation for impact assessment on communities that you are going to go into.

Madam Vice-President, do you not find it ironic that they bulldozed pineapple crops in a place name Pineapple Crescent? Do you think the name gives you an inkling of what goes on there? You might name a street Ramlogan Street because the Attorney General lives there; you might name a street Bellsmythe Street. Pineapple Crescent, a clue, a light bulb did not go on in your head that maybe there is pineapple growing on the agricultural land there?

Sen. Hinds: Long time. For 30 years.

Sen. F. Al-Rawi: So, let us say that you did not know, despite the fact you are on record as having walked the land—promises from the Minister of Food Production, Land and Marine Resources and I take him at his word. He is a noble man. I am sure he promised and meant every word he said, but he has been sabotaged by his own colleagues and that is harkening back to the debate when I asked this Senate to take note of the word, when we were discussing the economy, of the concept of hubris.

Sen. Hinds: “One year you know, boy.”

Sen. F. Al-Rawi: This is not only hubris, but we are dealing now with autocracy. [Desk thumping] It is critical that we adhere to the words of the learned Attorney General when he said in the last debate, “Time to get your act together.” “You cyah afraid de fire or de heat when yuh in the kitchen. Take yuh licks like a man.” Many men sitting there who I have respect for—Sen. George, you are one of them. I know you as a hardworking, honourable man who served this country as a Permanent Secretary and worked in the trenches. This is not lip service, Sen. George. I promise you. I mean what I say. The point is the fractures in the People's Partnership cannot be allowed to frustrate the exercises of our nation's growth.

The census cannot be sabotaged by Ministers sitting in the Government. We are beholden to a sacred oath without fear or favour [Desk thumping] to champion and advocate the rights of the citizens of this country. I know that I have elevated the temperate in this Parliament. I consider it my duty to have done so.

Madam Vice-President, with those hot words, I thank you. [Desk thumping]

8.50 p.m.

Sen. Dr. James Armstrong: Thank you very much, Madam Vice-President. I really did not intend to speak this evening because I really saw this Bill as being a very simple exercise, but I think that Sen. Al-Rawi has sort of drawn me into the debate. [*Desk thumping*] First, let me say, Madam Vice-President, that I support this Bill. I think that the census exercise is very important. I appreciate the difficulties as expressed by the Minister, and I hope that these will be overcome during the extended period, once we are able to pass this.

I think, Madam Vice-President, part of the problem is that, we really need the information from the census in order to do effective planning, and given what Sen. Al-Rawi just indicated, I think there is a larger problem here really. The problem is that even with the information and data that we have right now, from the last census, it is not being used properly, and there is very little planning taking place, and I have said this over and over in my contributions.

I agree that it is very difficult; it was very, very disturbing indeed, to see crops being bulldozed because as you are aware, Madam Vice-President, I am extremely concerned about people who are struggling to make a living, and the people that I consider to be at the lower echelons, and also people who are contributing in some meaningful way to the local economy in the areas in which they live, and therefore, indeed, I empathize with what has happened.

But clearly, there is an indication that there is very little communication between the Minister responsible for agriculture and the Minister responsible for housing. Any form of development, physical development, would require land. So there is a trade-off, that is very clear. The problem is that, as yet, we have not been able to sit down and to plan effectively, and in spite of the information and data that we have, we are still faced with a situation where one agency decides, “We are going to build houses”, another agency says, “We want to expand our agricultural production”, and there is absolutely no agreement, clearly, within the same Government as to where the priority should be and how they should proceed. [*Desk thumping*]

So, I would like to emphasize that once we have this census completed, that we give serious consideration to integrated development planning, so that the problems that we are seeing now—because it is going to affect a number of other ministries. For instance, it is going to affect Minister George’s ministry in that we need to preserve certain land areas, water catchment areas. So, we need to look at all of our social services and requirements, our infrastructure requirements,

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certainly our housing development, water, conservation of our forest and so on. And that is what the census will assist us to do, and I hope that we really give greater emphasis, once we have completed this census, to effective planning, so that our development could be along a rational path. Thank you. [*Desk thumping*]

Sen. Terrence Deyalsingh: Thank you, Madam Vice-President. This debate has taken a nice turn; a life of itself. One of the reasons for taking a census is for us to decide education policy, where to put schools and so on. When I made my contribution, I believe it was last week or the week before, I spoke about the fact that we have an autocratic Minister of Education. And now, the Saturday after I made my contribution, where I said he did not consider TTUTA's view on his education policy, I saw TTUTA took out full-page ads talking about education by decree. How are we going to use census information, or are we going to misuse it to decree education by a Minister of Education who is autocratic?

What I want to refer to is this. When this Government first came into power, they announced a land grab, and I want to know if anybody is going to count Robocop in Cashew Gardens, where he cordoned off 30 acres of land in Cashew Gardens for himself. Is anybody going to count Robocop? And no, Sen. Moonan, Robocop is not a new political party, because you were PNM, you were a UNC, you were a COP, so Robocop is not a new political party. [*Sen. Abdulah stands*] Is it a point of order?

Sen. Abdulah: You are misleading the Senate. This Government never announced a land grab.

Sen. T. Deyalsingh: Is it a point of order?

Sen. Abdulah: Yes, you are misleading the Senate.

Sen. T. Deyalsingh: What point of order, Sir? What number?

Sen. Abdulah: It does not matter. You are misleading the Senate on the basis that there was no such land grab.

Sen. T. Deyalsingh: Madam Vice-President, could I ask you to ask him what number?

Sen. Abdulah: You are misleading the Senate.

Sen. Hinds: What Standing Order? Sit down!

Sen. T. Deyalsingh: What is the point of order?

Sen. Hinds: He does not know. Go and check it out in a red book and come back.

Sen. Abdulah: I am looking for it at the moment but you are misleading the Senate, and you will continue to mislead the Senate if you are going in that direction. It is just not true.

Sen. T. Deyalsingh: Madam Vice-President, could you—thank you very much, Madam Vice-President. Who is going to count Robocop in Cashew Gardens? Because that is where crime is. And they have the audacity to come now and talk about crime and taking a census.

In part of the crosstalk that occurred here today, Sen. George spoke about and ridiculed us, accused us of killing off Caroni Limited. Am I correct?

Sen. Hinds: Yes, I heard him.

Sen. George: You say what you want to say.

Sen. T. Deyalsingh: I would like to quote a speech; an Anand Ramlogan Speech, COP rally, October 06, 2007:

“The UNC had a chance and blew it. The destruction of Caroni is painful but the truth is, Panday assisted in the destruction of Caroni by failing to strengthen and re-structure it when he was in power.”

This is the hon. Attorney General saying that Panday assisted in the destruction of Caroni by failing to strengthen and restructure it when he was in power. But here is the coup de grace:

“He killed Caroni and Manning lowered its coffin with the UNC performing the last rites, arti and all!”

That is the Attorney General accusing the UNC of destroying Caroni. It was not the PNM. But they would come with PNM revisionism from a dirty, red book, in a dirty, red library, under a dirty, red bulb. You want revisionism? This is revisionism, Madam Vice-President. It is Panday, according to the hon. Attorney General, who killed Caroni (1975) Limited and performed the last rites, arti and all. Arti is a religious—is part of sacred Hindu rites, and you are bringing arti into this. Imagine that!

9.00 p.m.

Let me tell you why the census—one of the reasons they cannot get into gated communities. The people in gated communities, Madam Vice-President, who probably all voted for the Government, were led to believe that once elected into office that crime would be a thing of the past. Under the People’s National Movement kidnappings went to almost zero. What is the position with

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kidnappings today? And you want people to come into your gated communities? The enumerators could be kidnappers, I do not know. That is what the gated communities might think.

You see, what used to happen in the early days of this Government, and I notice they do not say it and do it again, whenever they talked about crime, whether it is taking a census or not, every Member of the Government who stood to speak about crime had a story about somebody who was a victim of crime, and they were right, those families should never have to go through that. They quoted Debbie Ali, she wrote her book. The poor lady should never have gone through that. Debbie Ali was part of their campaign. They used her.

We got kidnappings down to zero, but kidnappings are on the rise again. How come no one comes here now and relates a story about kidnapping and the trauma being caused to families in Trinidad and Tobago under this Government where kidnappings are once more on the rise? [*Desk thumping*] That is why you cannot get enumerators into gated communities, because SUATT, which handled kidnappings, has been disbanded; the SIA has been demoralized; intelligence gathering is zero, and you want to know why you cannot get into gated communities to take a census? That is why!

So I think I have put this whole issue of Caroni (1975) Limited firmly to rest—

Sen. George: No you have not.

Sen. T. Deyalsingh:—you want me to say it again—not a problem.

“The UNC had a chance and blew it. The destruction of Caroni is painful but the truth is, Panday assisted in the destruction of Caroni by failing to strengthen and re-structure it when he—”

This is the—

—“He killed Caroni and Manning lowered its coffin with the UNC performing the last rites, arti and all!”

Sen. Baptiste-Cornelis: Who said that?

Sen. T. Deyalsingh: Ask your hon. Attorney General to refute it. Ask him to refute it. Ask him to refute it. [*Interruption*] But you are the one making the claim brother, not me. Anyhow, that was—yes, because you see—we have to pass

a Bill in this Senate to allow Members of that Government to hold dual citizenship, and quadruple citizenship in different parties, because today they are in one party. Whoever they feel will be in power next, they ride the coat-tails of that person. Today they are PNM, next they are UNC, next day is COP.

Sen. Hinds: Moonan has multi-citizenship. He was PNM, COP and now UNC. [Laughter]

Sen. T. Deyalsingh: Yeah. We have to get a special passport for him—

Sen. Hinds: The AG too.

Sen. T. Deyalsingh: It reminds me of the Jason Bourne movie when—“*The Bourne Identity*”. Poor “fella”, he went into the Swiss Bank to retrieve his belongings, he found 10 passports with 10 names, 10 identities. We need to get some of that for them there, [Desk thumping] so that they can have multiple identities, in multiple parties at the same time. [Desk thumping]

Sen. Hinds: Does the census ask what party you belong to?

Sen. T. Deyalsingh: No, it does not. Madam Vice-President, when the enumerators came to my home I spoke with them, because when I made my first contribution to this Bill I said that we should welcome them into our homes, offer them something to drink, and ask if they would like to use the facilities. I did that, because I feel each citizen has a duty to comply with the census. We cannot plan if we do not know who we are, how many of us there are, our characteristics, where we live and what our needs are. But in speaking to them after they had finished with me, I could concur with a lot of what Sen. Dr. Lester Henry said about the problems that the enumerators have with their salary. After a while they literally poured out their hearts. And a lot of what Sen. Dr. Henry said is true, based on my interaction with the two enumerators who came to my home.

But I will leave that aside and my broadside now is directed to my fellow citizens who show no civic responsibility. That point where citizens of Trinidad and Tobago refused to be interviewed by enumerators is deplorable. I think we have a civic duty to comply. [Desk thumping] Madam Vice-President, when I made my contribution to the Anti-Gang Bill, I brought out my little green book, not a little red book, a green book called *The Students' Companion*. I spoke about civics and taking a census every 10 years. When we come back here in—10 years from now, 20, whatever, whoever is the Minister responsible is going to be having the same problems, but magnified and amplified. I will tell you why.

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As societies like ours develop, unfortunately one of the side effects of development is insularity, one of the side effects of our type of development is individualism, one of the side effects of this type of development is loss of neighbourhood, loss of civic mindedness and whoever is in power, whichever party it does not matter, it could be Robocop, COP, UNC, PNM, it does not matter, you are going to have the same problems, but magnified, because in 10 years from now we will become more insular, more individualistic.

I was pleased to hear the hon. Minister—because I did not know you could do this, actually fill out your form online. I thought some sort of protocol with the international agencies meant that you actually had to physically go, see and verify. I am glad to hear that. My suggestion, hon. Minister, is, why was this online facility not advertised and incorporated into the process, into the methodology, so that people could fill out their forms online? That way you save having all these hundreds or thousands of enumerators, and you would have gathered your data.

I want to suggest that you having had this experience, part of the learning should be that you codify, you document for your successor, whoever he or she may be, how in 10 years they can use technology to speed up the process, to deepen the process, so you get higher participation rates in a shorter time, at a lower cost. It is going to be efficient, it is going to be effective and it is going to be making use of technology. As I said, as we progress as a society, these problems we encounter now are going to be multiplied, people are going to become less and less compliant. As Sen. Prof. Watson said, they are going to have enumerator fatigue and survey fatigue, so I am glad to hear that. I am suggesting that it be deepened and it be used.

Madam Vice-President, I wholeheartedly support the extension that the hon. Minister is seeking. I see no problems with its passage. With these few words, I thank you very much. [*Desk thumping*]

9.10 p.m.

Sen. Shamfa Cudjoe: Thank you, Madam Vice-President. I am pleased to be able to make a very short contribution to this Bill. I join my colleagues in supporting the request for the extension of the census activity for 2011.

Before I get into my two points, I must join my colleagues on this side in being concerned about this whole housing situation. I remember when we had budget debates that included housing that the Government chastised and penalized

the People's National Movement. They said that we did not have any heart; that we tore down people's crops and we set up housing on agricultural lands. I remember coming here week after week having to listen to that.

Last night, when I sat in front of my TV, I was very surprised. It got to the point where I heard a farmer say: "This is not to cry for; this is to kill for." It made me think. As much as the Government was chastising the PNM for its housing project, I had never seen, in my 29 years, an act where a government goes for people's land. When they chastised us, it had to do with land at Curepe and those lands did not have any crops on them. Last night on the TV, I saw big pumpkins, chive and different crops being pulled up and people running behind a tractor. They said there was a heavy police presence.

I remember the Government coming into the House and painting themselves as paragons of perfection; as being of true service to the people and they spat on the People's National Movement. In Tobago, the old people have a saying: Be careful how high and how far you spit because your own spit could fall right back in your own face. We are getting to see the true colour of this UNC coalition. We are getting to see the true yellow of this UNC coalition.

I went exercising with my mother last week Friday morning and we came across some yellow flowers and I wanted to pick them; they were so pretty. She said: "Do not pick and bring those yellow flowers to my house because you would not be pleased." I asked why. "Look at them and make sure you know them when you see them. They only look pretty, but when you bring them to the house they gave a bad odour." I asked her what is the name of the flower. Then she told me it is Stinking Susie. When she told me they were Stinking Susies, I said: "Ah, UNC. That should be their flower", Madam Vice-President; very pretty yellow flower, but they smell so bad. They painted all kinds of beautiful pictures, but when you get to know them they are like Stinking Susies.

Let me get to the meat of the matter. One major concern for citizens with the Census 2011 is confidentiality and security of that information that is being collected. People want to know where the information will be sent and how it will be stored.

I will be honest with you. As a young person, especially for the last census—and I asked several other young people—people do not know or care what the census is about. There needs to be some education on what it is about and how important it is as it relates to providing services and infrastructure to the communities.

There are complaints on the radio station of enumerators asking people private questions like if there is anybody in the household that has HIV; what is the HIV status of people in the household; and asking personal questions about their salaries. We need to talk with the enumerators and make sure that they are doing their jobs and asking the questions they are supposed to.

One concern is with regard to the number of enumerators we have out there and the whole dropout in the number of enumerators. We have to understand that in this day and time there are many more opportunities for young people. Back then, you would have had people rushing to be a part of this whole census activity; wanting to be an enumerator. It is not much now. Many young people have lots of opportunities, as you would have mentioned, as seen in the *Hansard*, going back to school and being accepted into jobs, that kind of thing. Nobody really wants to walk from house to house in the heat.

I was an enumerator in the last census. At that point in time, we were just thinking about the money. I know of young people who filled out the application themselves and did not go to the house, so we have to make sure the people are doing the work the way they are supposed to.

The census process could be lengthy; it could be long for the person responding. Sometimes persons respond incorrectly. For instance, I come from a large family. When you get down one by one asking for each person, you just say: "Same status for everybody; everybody is a student." My recommendation, prior to hearing Sen. The Hon. King's presentation, would have been to have the census mailed out to the houses like they do in the US, or online. I am glad to know that the census forms are available online and that you can do them and email them to the Ministry.

I wish that had been advised and people had known. Sometimes you make an appointment with the enumerator and you just do not keep it; you do not remember. I am very happy to know we have moved in the direction where we are providing the form online. I wish we had been advised, but we have to start somewhere, so I commend you on that.

As it relates to Trinidad and Tobago, I hope this census activity will give us proper information and statistics as to what is taking place on the ground with respect to allocating funding for certain projects and programmes. At the end of the day, it is not just about conducting census activity, but what we do with the information; how we disaggregate it; how we analyze it to really make the difference. Completing the census is one thing, but what we do in the end, how do

we make these things that we promised after the census, like providing housing and transportation, come to life. We cannot do that with a stagnated economy, we really have to figure out what we have to work with and find a way to make it work for us instead of us working for the census.

I commend you for taking the census electronically. I support the extension and I really want to impress the national community to fill out the census forms and participate.

People who have dogs, look out, the census people are coming. When you go to a household and there are dogs, as an enumerator, I was not going back with dogs. So, please, everybody participate in the census activity so that we can take the nation to higher heights; to the way we want to see our nation today and tomorrow.

Thank you, Madam Vice-President.

The Minister of Planning Economic and Social Restructuring and Gender Affairs (Sen. The Hon. Mary King): Thank you, Madam Vice-President. I thank all Senators who have contributed and there are some questions I feel I need to answer. Sen. Dr. Lester Henry asked why we are having a Census Bill now. I thought I had explained at the start of my presentation that this Bill is to provide for the extension and validation of the census that was taken pursuant to the Census Order and the issue was, although the Order had been approved and passed in the Parliament, it was not published, therefore, we had to bring a Bill to make sure it is ratified and, of course, we included the extension. That is why now.

I think Sen. Dr. Henry also alluded to the fact that perhaps we did not take advice and the timing was wrong. The advice we were getting was to do it in August, September, October, the rainy season. That certainly would not have worked, so we worked around training before Christmas and having the census start in January and we did not have any activities or festivities interfere with the census.

They say our people are fun loving. They are fun loving, yes, but they also take their work seriously and the fact that we have 97 per cent in some areas and 93 in others, we have done very well; but we need to ensure that we get as many more as we can get. The enumerators hired were over 3,000, a perfectly satisfactory number and that is what we have kept refreshed as people have dropped out. We do have enough people in the field for the census.

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Was the budget for the advertising good? We had a prolonged period of advertising on television, in the newspapers, on radio, billboards and flyers. As you heard, we even had a census night at NAPA where there was a celebration. Flyers were given out, so it was a very well covered advertising campaign. *[Interruption]* Yes, the NAPA is a beautiful building. It is a pity we do not have parking around it.

Sen. Deyalsingh: If we did not build that, I do not know what you would have done.

Sen. The Hon. M. King: We have no space to park and all that, but we will not go there.

As far as stopping some of the trucks, we had a lot of complaints from people when the trucks first started to go out because they were noisy and we covered the advertising by other areas; more billboards.

Sen. Dr. Rolph Balgobin, yes—

Sen. Hinds: I want you to answer Sen. Al-Rawi.

Sen. The Hon. M. King: Could I do it in my order, if you do not mind?
[Laughter]

Another item; I go back to Sen. Dr. Lester Henry. As I see his face, I recall he said that we did not use the senior people in the unit. We did exactly what we did 10 years ago. We set up a special census unit and had people dedicated to that unit for the census. It was done exactly the same way.

We obviously do need to have some CSO strengthening. As Sen. Prof. Watson has indicated, there has already been some work done on preparing the CSO perhaps to be an agency or a statutory authority. That is now at the discussion stage and there will be strengthening of the CSO whatever entity it ends up becoming. That is in train.

Sen. Al-Rawi, yes, the census should not be sabotaged; it will not be sabotaged. I think we have come a long way and we intend that by the end of May we will have all we need. We are aiming for at least 90 per cent and possibly will reach 95 per cent.

The new technologies which we planned to use, we have now got it online, but it took us that length of time to convince the same personnel that we are dealing with in the CSO to accept the fact that people would prefer and accept doing it online. That is why it was not done online in the beginning. Change is

hard and the culture is hard to change as well. In future surveys, we intend to use the new technologies: palm-held computers, iPads and all of that; and, of course, the online interaction, which will speed a lot of stuff up.

Sen. Cudjoe's comment on the new technology; we are going there. Mailing questionnaires is never a satisfactory way of getting back data. You probably know that—and all of us have done surveys and worked in research—mailing questionnaires is not effective. You get about a 30 to 35 per cent response rate and therefore, the face-to-face/body/online interaction will be much more successful.

With those explanations, I beg to move.

9.25 .p.m.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in Committee.

Clauses 1 to 7 ordered to stand part of the Bill.

Preamble ordered to stand part of the Bill.

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

Senate resumed.

Bill reported, without amendment.

Question put, That the Bill be now read a third time.

The Senate voted *Ayes 27.*

AYES

Panday, Hon. S.

Sandy, Hon. Brig. J.

Ramlogan, Hon. A.

King, Hon. M.

Bharath, Hon. V.

Baptiste-Cornelis, Hon. T.

George, Hon. E.

Abdulah, D.

Maharaj, D.

Watson, Prof. P.

Moheni, E.

Moonan, R.

Bhagaloo, K.

Gray-Burke, Arch. B.

Tota-Maharaj, Dr. V.

Hinds, F.

Henry, Dr. L.

Cudjoe, Miss S.

Al-Rawi, F.

Deyalsingh, T.

Browne, M.

Ramkelawan, S.

Baptiste-Mc Knight, Mrs. C.

Drayton, Mrs. H.

Balgobin, Dr. R.

Ramkissoon, Prof. H.

Armstrong, Dr. J.

Question agreed to.

Bill accordingly read the third time and passed.

Adjournment

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ADJOURNMENT

The Minister of State in the Ministry of National Security (Sen. the Hon. Subhas Panday): Madam Vice-President, it was the intention of the Government to pass the FIU Bill, the Census Bill and the Trafficking in Persons Bill today; however, we have passed two. The Senate has, indeed, worked very hard today and we have completed two. I want to thank all Members of the Senate for that. [*Desk thumping*]

Madam Vice-President, the Trafficking in Persons Bill has to be passed very early and, in the circumstances, I have spoken to my colleagues on the other side. Friday the House would not be sitting, however, Friday would be inconvenient to some of our colleagues. In the circumstances, I beg to move that the Senate be adjourned to Tuesday, May 03, 2011 at 10.30 a.m., at which time we shall complete Bills Nos. 4 and 5 on the Order Paper—that is, an Act to make provision for the maintenance of public safety and order through discouraging membership of criminal gangs and the suppression of criminal gang activity and other related matters and the other Bill which was being debated together, an Act to amend the Bail Act. That should not take very long and after we complete that we shall move on to the Trafficking in Persons Bill.

Madam Vice-President, I want to thank hon. Senators on the other side most genuinely for the opportunity they have given the Government to borrow from them their Private Members day—even on a second occasion. It is hoped that the following Tuesday we shall do the Private Members day. [*Interruption*]

Hon. Senators: The following Tuesday.

Sen. S. Panday: The Tuesday after the 3rd—probably the 10th—we shall do the Private Members day. [*Crosstalk*] All things being equal, we shall not take another day from the Private Members. Colleagues, thank you very much for your kind indulgence in that regard. [*Desk thumping*]

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.34 p.m.