

Leave of Absence

Tuesday, June 18, 2013

SENATE

Tuesday, June 18, 2013

The Senate met at 1.30 p.m.

PRAYERS

[MR. PRESIDENT *in the Chair*]

LEAVE OF ABSENCE

Mr. President: Hon. Senators, I have granted leave of absence to Senators The Hon. Kevin Ramnarine, Vasant Bharath and Jamal Mohammed; and Sen. Faris Al-Rawi, who are all out of the country.

SENATORS' APPOINTMENT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona SC:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, S.C., President and Commander-
in-Chief of the Armed Forces of the Republic
of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona SC
President.

TO: ARCHBISHOP BARBARA BURKE

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44 of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, BARBARA BURKE, to be temporarily a member of the Senate, with effect from 18th June, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable 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 17th day of June, 2013.”

Senators' Appointment

Tuesday, June 18, 2013

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS
CARMONA, S.C., President and Commander-
in-Chief of the Armed Forces of the Republic
of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona SC
President.

TO: MR. WAYNE DANIEL STURGE

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

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, WAYNE DANIEL STURGE, to be temporarily a member of the Senate, with effect from 18th June, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Vasant Vivekanand Bharath.

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 17th day of June, 2013.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS
AQUINAS CARMONA, S.C., President and
Commander-in-Chief of the Armed
Forces of the Republic of Trinidad and
Tobago.

/s/ Anthony Thomas Aquinas Carmona SC
President.

TO: MR. DON SYLVESTER

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

Senators' Appointment

Tuesday, June 18, 2013

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, DON SYLVESTER, to be temporarily a member of the Senate, with effect from 18th June, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Mohammed.

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 18th day of June, 2013."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By His Excellency ANTHONY THOMAS AQUINAS CARMONA, S.C., President and Commander-in-Chief of the Armed Forces of the Republic of Trinidad and Tobago.

/s/ Anthony Thomas Aquinas Carmona SC
President.

TO: MS. SHERRIE HAMIDAN LORNA ALI

WHEREAS Senator Faris Al-Rawi is incapable of performing his duties as a Senator by reason of his absence from Trinidad and Tobago:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by section 44(1)(a) and section 44(4)(b) of the Constitution of the Republic of Trinidad and Tobago, do hereby appoint you, SHERRIE HAMIDAN LORNA ALI, to be temporarily a member of the Senate, with effect from 15th June, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Faris Al-Rawi.

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 17th day of June, 2013."

OATH OF ALLEGIANCE

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

Abp. Barbara Burke, Wayne Daniel Sturge, Don Sylvester and Sherrie Hamidan Lorna Ali.

Visitors Welcome

Tuesday, June 18, 2013

**VISITORS WELCOME
(KPA Presbyterian School)**

Mr. President: Hon. Senators, I take this opportunity to welcome the students from KPA Presbyterian, hailing from Siparia, who are with us this afternoon in our audience watching on and sending us—[*Desk thumping*]

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Consolidated Financial Statements of the Trinidad and Tobago Unit Trust Corporation (UTC) for the year ended December 31, 2012. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Value Added Tax (Amendment to Schedule 2) Order, 2013. [*Sen. The Hon. L. Howai*]
3. Motor Vehicles and Road Traffic (Amdt.) Regulations, 2013. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]

ORAL ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we would like question No. 57 on the Order Paper to be deferred for one week.

The following question stood on the Order Paper in the name of Sen. Shamfa Cudjoe:

**Constitution (Amdt.) (Tobago) Bill, 2013
(Status of)**

57. Would the hon. Prime Minister inform the Senate on the status of the Constitution (Amdt.) (Tobago) Bill, 2013?

Question, by leave, deferred.

INSURANCE BILL, 2013

Order for second reading read.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. President. I beg to move:

That a Bill to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes, be now read a second time.

Insurance Bill, 2013

Tuesday, June 18, 2013

Mr. President, I am honoured to be able to move this Bill this afternoon. It is an historic document which will have a significant role to play in laying a solid foundation for the development of the insurance industry. This Bill has been long in coming and it has been worked on by a number of people over successive administrations. In fact, the genesis of the Bill started in 2001 when the idea was first mooted. Over that period of time, a number of people have worked on the Bill, which has afforded me the opportunity today to be able to come forward and lay this Bill. I would like to thank all those responsible for bringing us to this point, including the Central Bank, including Senators on the other side, including Senators from this side who have all contributed to having this Bill here before us. [*Desk thumping*]

The Insurance Act, 1980 will be repealed and will be replaced with the Bill before us today that incorporates international best practices. The industry cannot develop unless its stakeholders have confidence in the system, a confidence which has been affected by the meltdown of Clico and the CL Financial Group. This has placed a tremendous strain on the industry and has greatly shaken the confidence which the investing public has in the insurance industry.

The Bill is also intended to address those allegations of abuse from the members of the public who have complained about our insurance industry over the years.

We have been regaled with many stories of these abuses, and there is no need to go into them, other than to say that the implementation of this Bill will go a long way toward addressing those concerns.

1.45 p.m.

Mr. President, our goal is to make Trinidad and Tobago a regional financial centre. The development and implementation of this Bill, soon to become an Act, will be a key foundation stone in creating the financial foundation, the architecture as it were, on which such a regional financial centre can be built. As with all financial centres, confidence is the critical ingredient in building a successful financial services industry.

The objective of this Bill is to maintain confidence in and promote the soundness and stability of the financial system in Trinidad and Tobago, and maintain an appropriate measure of protection for policyholders and beneficiaries of insurers.

Over the past few years, there has been rapid development of the financial services sector here in Trinidad and Tobago, and a sound regulatory and supervisory system for the insurance sector is necessary for maintaining a fair, safe and stable environment for the benefit and protection of the interest of policyholders, beneficiaries and claimants, as well as contributing to the stability of the financial system.

The industry, like other components of the financial sector, as I said, is changing rapidly in response to a wide range of social, technological and economic forces. The 2008 economic meltdown throughout the developed world from which we are all still recovering was no doubt a failure of regulation. We in Trinidad and Tobago are also continuing to struggle with the need to turn around the effects of the meltdown of the CL Financial Group and, in particular, of Clico, the largest insurance company in Trinidad and Tobago and, perhaps, in the region. This meltdown arose from poor corporate governance, from inadequate risk-management systems and from lax oversight at all levels.

Insurance supervisory systems and practices, therefore, must be continually upgraded to cope with these developments. Insurance and other financial sector supervisors and regulators must understand and address financial and systemic stability concerns arising from the insurance sector as they emerge.

In Trinidad and Tobago, the banking and insurance sectors now have assets of close to \$169 billion or just under 110 per cent of GDP. Life insurance companies, in particular, account for approximately 20 per cent of the total GDP of the country, but this number has actually come down in the face of the Clico crisis.

In 2007, that number was 24.5 per cent. It increased in 2009 to 27.6 per cent and, as at the end of last year, it had declined to 20 per cent, having declined on a continuous basis between 2009 and 2012. However, after that contraction, we are beginning to see positive signs of a return to confidence. Total assets grew by 8.7 per cent in 2012 to a level of about \$23 billion, and most of these have been invested in government securities. Gross premium income grew by 8.4 per cent—and these numbers exclude Clico. If we include Clico, actually, I was very pleased to see that gross premium income actually increased by 8.7 per cent, meaning that Clico itself was showing a healthy return to growth in terms of its premium income.

With respect to individual annuity products, we are seeing the premiums from these products having increased by 5.8 per cent. Growth claims in the life insurance segment grew by 2.9 per cent to approximately \$1.5 billion over the past year. So the industry is significant for the economy, and it will continue to play a very significant role as a mobilizer of resources for the industry.

Mr. President, we operate today on largely what is a 1980 Insurance Act. There were some amendments in 2009 but, most of it, the bulk of it, is based on the 1980 Act, and this 1980 Act was a marginal upgrade of the 1966 Act. So we are actually operating on a regulatory environment that is considerably outdated

by international standards. It is woefully inadequate and lags way behind the Jamaican insurance legislation, for example, and the Clico debacle, in particular, highlighted the need to strengthen the local legislative and supervisory framework for the insurance industry.

Regulation will not eliminate failure. Let me say that. It will not eliminate failure, but it will help to dampen the frequency and the extent of such failure. And as the economy continues to expand, and as the industry continues to expand and as new entrants come into this industry, it is important that we put a framework in place to manage the risks attendant with this growth in the best possible way.

Already I am seeing in recent years the banking industry starting to become involved in the insurance business. Scotiabank, some years ago, launched their Scotiabank operations which account for a considerable part of the profits of the Scotia group in Trinidad and Tobago. RBC has one of the largest insurance companies in Canada and I expect that they will be issuing insurance policies in this local market. So, as we go along, we are seeing that the industry is becoming intertwined, it is becoming larger, it is accelerating and there is an urgent need for us to address the putting in place of appropriate legislation.

As I said, initial work on the reform of the Insurance Act began in 2001 with a grant from the Inter-American Development Bank. I have to say that as I did my own background into this Act, prior to coming here, I was, indeed, astounded that this work started in 2001. I cannot understand what we were doing for the last 12 years. It is amazing that it has taken us 12 years to move legislation from its gen-embryonic form to simply just laying the Bill. I have not gotten it passed yet. So when I think about that, I sometimes despair as to how competitive we could be in this global economy where things happen literally overnight. I think it is something that we need to certainly pay attention to.

It is not enough to say that we have a bureaucracy. We on this side, particularly, and I have a responsibility, to ensure that we take the appropriate action so that things like this do not occur again in future, [*Desk thumping*] particularly, where we are dealing with something as important as a regulatory framework that manages over \$20 billion in assets as at today, excluding—I should say those numbers that I quoted, I probably did not emphasize it enough—the assets of Clico which increase those numbers significantly, if I were to include those numbers.

So, in looking at it, an Insurance Act Reform Committee was established by the Central Bank to review the legislative framework governing the sector back when we first started the process. The committee comprised staff from the Central Bank, the

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

International Monetary Fund, from the Association of Trinidad and Tobago Insurance Companies (ATTIC), the Insurance Brokers Association of Trinidad and Tobago, as well as a local insurance industry consultant at various stages.

In 2004, we had progressed to the point of having a White Paper on financial sector reform, and I am pleased to say that I, perhaps, am the fortunate recipient, again, of the work that had been done by previous administrations, including this one, over the years, as we get to a point where we are in a position to transition and to implement most of the initiatives in the 2004 White Paper.

I have already given instructions to the Ministry of Finance and we have already started discussions with the Central Bank with a view to now developing another 10-year plan for the growth and development of the industry. Where I would like to see that plan focused would be on what are the initiatives we need to take, we need to implement—how are we going to create this regional financial centre on the firm foundation which this Parliament will lay or has laid and will continue to lay for the financial services sector as we move forward with—after this piece of legislation—legislation for the credit unions and then the occupational pension plan and a major reform of the pension system here in Trinidad and Tobago.

Mr. President, the consultative process was very long, very deep, very wide. It involved many stakeholders. The process began in 2004 with a stakeholder consultation and culminated in a public consultation in December 2009. This process has provided ample opportunity for the stakeholders to comment and make suggestions which were very helpful for us at the Ministry and the Central Bank to ensure that the new legislation was well aligned with local circumstances. Based on the ongoing discussions with the various stakeholders within the industry, I am pleased to say that we have received broad support for the draft legislation as we have here before us—I should say, “broad” as opposed to “unanimous support” for the legislation.

So, I think we have gotten to a good place, and one of the things which I intend to suggest as we move along, is that this Bill also be referred to a joint select committee and the expectation is that we could then address all of the issues in the legislation so that we have a piece of legislation that is truly responsive to the needs of Trinidad and Tobago and to the industry at large.

This Insurance Bill, 2013, incorporates international best practice. We have reviewed legislation from the UK, Australia, Canada, Jamaica and other parts of the region with a view to identifying what are the best practices which are relevant to our environment and to bring those into play. I expect that out of this, we will have a modern and effective regulatory and supervisory framework for governing the industry here in Trinidad and Tobago.

The Bill is based on sound theoretical principles. It has been informed by the insurance core principles developed by the International Association of Insurance Supervisors which provides minimum standards for effective insurance supervision. It is well aligned with existing relevant legislation, such as the Central Bank Act, the Companies Act, the Securities Act, the Financial Institutions Act, the Proceeds of Crime Act, the Anti-Terrorism Act and so on. It was examined to ensure that there was regional harmonization in areas that would impact on the management and the supervision, particularly of overseas subsidiaries of local companies in Trinidad and Tobago and, as I said, it includes best practices.

When the IMF reviewed the legislative framework back in 2005 as part of their financial sector assessment programme, they had identified considerable shortcomings and weaknesses in the existing legislation as we had identified. However, when they reviewed the draft of this legislation which we have before this honourable Senate, a couple of years ago, they had this to say and I quote:

“contains a modern approach to insurance legislation and supervision. It would measure company solvency against a risk-based capital formula while strengthening corporate governance of insurance companies and establishing a more effective protection of policyholders.”

2.00 p.m.

So, Mr. President, we are comfortable, that based on the extensive consultative process, the reviews that have been done by local as well as international experts, the search for international best practices that could be included in the legislation, as I said, the wide stakeholder consultation, that we have before us a Bill that is truly robust and that will meet the needs of the industry.

Mr. President, having provided some background on the objectives and the consultative process, I shall simplify my approach to my presentation of the Bill under six headings. I will deal with provisions which have been deleted, and why we deleted those; provisions which have been retained from the existing Act, provisions that needed to be clarified and strengthened, and those which we have done so, new provisions that formalize existing practices. So, for example, in the industry we have instances where the insurers would refer matters to the Financial Services Ombudsman, but there is no legislative requirement for them to do so.

What we will do in this legislation is formalize many of these practices, again which are practices that we would like to encourage. I would also like to deal with some new definitions which we have put in, and there are just three definitions

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

really that I would like to refer to. And then the bulk of the presentation really deals with what are entirely new provisions and there are quite a substantial number of new provisions, something like about 14 of them that would be substantial enough that I would need to refer to them, and these are broad headings under which a number of clauses would fall.

With respect to—starting first with sections which we have deleted from the Act, there are four sections which we have deleted which cover two broad areas, which I had just referred to. The first is, in section 8, previously the inspector of financial institutions acted as an arbitrator between policy holders and insurance companies when there were issues. This provision is no longer necessary because in clause 279 we have made it mandatory for insurance companies to become members of the Financial Services Ombudsman scheme within 60 days after the commencement of this Act.

Then there were three other sections which were deleted: sections 96, 97 and 98, and these had provided for a tribunal to hear matters of refusal of registration of agents, brokers, salesmen and adjusters by the Central Bank. So we have deleted that section because the tribunal has not really functioned as effectively as we would have liked. And what we have done in its place is put in a provision which allows these matters to be heard by a judge in the High Court. So those are the two broad areas that we have deleted from the Act, and we have put arrangements in place to make other provisions for dealing with those particular issues.

With respect to the provisions which have been retained, I would say that very few provisions have been retained in their original form. Those that have been retained relate to industrial life policies and certain other provisions relating to the issue of other policies. Industrial life policies are no longer written in Trinidad and Tobago.

The history of these is that they had their genesis about 160 years ago, and what these were, were policies that were sold in the UK, in industrial areas, to the working people, and these were really small policies, and your insurance agents would go to your home and collect the premium on a weekly basis, or on a monthly basis, as the case might be. Of course, that came into Trinidad and Tobago as these things are wont to do—and years ago there used to be these industrial life policies in Trinidad and Tobago. Right now, however, there is only one company that has some industrial life policies—most people do not write these any more—and they have about five agents who are dedicated to servicing these policies, and we expect over time that they would run off. But in the meantime what we need to do is to ensure that the legislation takes account of the fact that these policies are still on the books.

With respect to the other provisions relating to policies which were retained, these relate to assignments and mortgages of policies, protection of policies, and some other miscellaneous provisions which are relevant today.

There are two other areas that we have retained from the old legislation, and the first deals with the pension fund plans which has remained fundamentally unchanged. We are working on new legislation, separate legislation, for the pensions industry, and I expect that once that is in place we may be able to make further amendments here, but for the time being we would need to ensure that the pension fund plans remain captured under some piece of legislation. And then there are also some enforcement tools which have been retained, but which I would speak to later on.

So, Mr. President, I turn now to provisions from the Act that were clarified or strengthened, and the first relates to disclosure of information by the Central Bank. This was amended in 2009, and this amendment occurred when of course we had the Clico and the CL Financial meltdown. This enabled the Central Bank to share information with local or foreign regulatory agencies. Well, clause 15 of this Bill enhances this provision to allow for the sharing of information with the Financial Intelligence Unit and with other stakeholders such as the Deposit Insurance Corporation. The intention here is to ensure that we have a single unified regulatory type of activity that will help to manage a number of these issues. The Act also permits public disclosures where it is deemed to be in the best interest of the financial system, policyholders or other stakeholders.

Another provision which has been strengthened, Mr. President, relates to stated capital. Right now the Act requires capital of \$3 million for life insurance companies and \$1 million for general insurance companies. What this did is that it allowed a company like Clico, which had substantial investments in Home Construction, Republic Bank, Methanol Holdings and so on, to really have a balance sheet of close to \$100 billion, but with \$3 million of capital. I mean, this was, literally, almost a 99 per cent leveraging of the company, and that of course created very significant risk.

Clause 21 of the Bill—and while these are minimum capital requirements, we do in fact have arrangements in place to increase the capital based on the calculated risk on the balance sheet of the company. So clause 21 of the Bill seeks to increase the minimum share capital to a level commensurate with what is needed to ensure a viable operation. What we have done is line this up with the FIA so that this threshold has been increased to \$15 million, and in the case of composite companies, to \$22 million, which would be companies such as life and general companies, would be considered composite companies, for example. So the minimum capital for a composite company would be \$22.5 million.

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

We recognized, however, that a number of smaller companies may actually have difficulty in achieving this level of capital. So what we have done is put in transition arrangements which will give these companies five years within which to increase their capital to the level that we are required to be increased to. As I said, what we will also do is put arrangements in place that would require higher amount of capital for companies with a higher risk profile, and this would be to ensure that we adequately protect the interest of policyholders.

Another area which we have strengthened relates to registration of a company to carry on insurance business. Right now it is required, however, what we have done is outlined the criteria in more detail and we have enhanced that criteria, and that criteria include things like capital requirements, actuarial reporting requirements; ensuring that you have at least—if you have a company in existence—a certain number of years of audited financial statements, and so on. So, what we have done is ensured that there is a very comprehensive list of criteria that we will review, and that the regulators will review prior to giving approval for the registration of a company.

Another area that we have strengthened deals with funds. We have different funds: statutory funds, catastrophe funds and so on, and what we have sought to do is to strengthen those particular areas, particularly, as the existing arrangements have proven to be ineffective. What we are actually going to be doing is doing away with the statutory fund altogether, and in its place we will be putting the risk-based capital ratios with the exception of branches of foreign companies. So branches of foreign insurance companies that are located here will have a statutory fund, but the ones that are based here in Trinidad will be managed on the basis of regulatory capital, and the arrangements with respect to those funds for branches of foreign operations will change very dramatically.

The reason for that is that the types of risks that we carry on the balance sheet of insurance companies are quite different to what they used to be years ago. Previously, we recognized only credit risk; today we have to recognize market risk, and market risk comes from changes in market conditions, and what that refers to is, for example, interest rate risk.

What happens in a case like that, as you know, if interest rates go up, the price of securities come down, so you may be holding certain assets on your balance sheet today that may be worth \$100 million, and based on changes in interest rates tomorrow, it could be worth \$50 million, and, therefore, you need to have capital to be able to support potential changes in the market rates that apply to assets which the company hold on its balance sheet. So under the new Act, what we will

do is increase the amount and quality of assets that are required to mitigate risks for the policyholders. A number of jurisdictions have implemented similar risk-based—In fact, most advanced jurisdictions have implemented risk-based capital regimes along the lines that I have just referred to.

The other fund which we have strengthened, or the arrangements around which we have strengthened is the catastrophe reserve fund. Trinidad and Tobago lies along a major earthquake fault line, and while we are not directly in the line of the hurricane belt there are risks that we carry from storms and from other types of activities which impinge on what happens in other islands. So a catastrophe reserve fund which is currently optional will now be made mandatory for insurance companies that carry on property insurance business.

So if you are carrying on property insurance business as a general insurer, you will now be mandated to have a catastrophe reserve fund. And this catastrophe reserve fund must be invested in foreign assets that do not originate in Trinidad and Tobago, and again, the reason for that is precisely because you do not want the assets to be dissipated locally. So what it also does, is it also now requires insurance companies in the general insurance business to have people on staff who are able to manage a foreign investment portfolio.

It is not as easy to manage as perhaps the local portfolio because the markets are different. They are more remote, they are more sophisticated, and you need to pay attention to what is happening there. So they would have to evolve ways in which local companies now start to manage their investments overseas, because if you intend to do this business you are going to have to maintain that fund.

Mr. President, we also propose to strengthen the duties and powers of the inspector to ensure that the problems which we had in the past where the inspector was constrained from being able to act in certain instances, as for example, in the CL Financial disaster, that the inspector will be able to do so. It also gives the inspector, under section 64 of the existing Act, we do give the inspector the power to request information from an insurance company, but it does not give the inspector the right to require information from certain connected parties. In this case we are making a change in clause 10 of the Bill.

2.15 p.m.

So if for example you are a conglomerate and you sell cars, and you sell bread, and you sell insurance, the inspector will have the right to be able to find out what is happening in the bread company, if in some way it impacted on what is happening in the insurance company.

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

Now, that is something that did not exist before. People will wonder why is the inspector coming and all we are doing is baking bread, but the point about it is that to the extent that it impacts, to the extent that they are related party transactions, to the extent that the company might be financing the operations of the bakery and so on, those kinds of interconnectedness create the potential for contagion and therefore, the inspector will have the right to be going. I will speak a little bit more about connected parties as we go through, and some of the things that we are going to be doing; and again which is why we need the special majority because of the very pervasiveness of this piece of legislation.

We have also placed a greater onus on boards and senior management. Clause 90 of the Bill prohibits persons convicted of fraud or money-laundering offences from becoming a director or an officer of an insurer.

It also debars directors and officers who have been adjudged bankrupt or who were involved in a company in the past 10 years immediately preceding the winding up of that company. So if for whatever reason the company had to be placed in receivership, for example, and you were involved as a director or senior manager of that company, up to 10 years prior to that company going into receivership, you cannot become a director or officer of an insurer or a financial holding company without the express approval of the Central Bank.

So it is fairly wide and it creates a very long-lasting requirement. Again, this is because what we have found is that people, particularly in financial institutions, you could make certain kinds of decisions which because the risk stays on the books for an extended period of time, you could find that the problems crystalize in years to come and you need to be able to at least ensure that prudence and good judgment was the hallmark of the decision that was made at the time when it was made.

The Bill also requires directors to be fit and proper, not only at the time of appointment, but on a continuous basis. Where they cease to be fit and proper then they have to cease being a director or officer of the company, and the criteria for assessing that fitness and propriety of directors are prescribed in Schedule 5 of the Bill.

Ownership: not any and anybody could own an insurance company now, as they say. I mean, while the existing legislation specifies the conditions under which someone may become a controller, it allows a no-objection process, and where the Central Bank fails to raise any objections, you proceed.

No criteria is set out to determine fitness and propriety nor is there any provision enabling the Central Bank to take action against a controller, which need not necessarily just be a person—it could be an organization—who is no longer fit and proper.

Insurance Bill, 2013

Tuesday, June 18, 2013

So we have addressed this in two steps: the first step is we have created different categories of shareholders. So we have acquirers, we have significant shareholders, we have controlling shareholders and we have the financial holding company which I will speak to a bit later. So we have different categories which we can manage differently.

We have sought to address the deficiencies in the current law by removing the no-objection clause and putting in a requirement for an expressed approval from the Central Bank for you to be able to become an owner or a controller of an insurance company.

Mr. President, we also introduced new requirements for auditors and actuaries and this is really as a result of all the debacles that have occurred both internationally as well as locally. We have had Enron, we have had WorldCom, we have had CL Financial and all of this just highlighted the need for audits, for rigorous internal controls, for proper risk management because significant reliance is placed on the financial statements of investors. I am aware of many investors in the local market who would have made their investments in the CL group on the basis that they reviewed the accounts and for them they thought that these accounts represented what they interpreted to be a fairly strong company.

So most of these requirements which we are introducing will be requirements that are already introduced in many jurisdictions throughout the world. Clauses 102 and 104 of the Bill seek to introduce new duties and responsibilities for auditors and actuaries to report to the board and to the Inspector of Financial Institutions at the Central Bank. In light of this and the need for ensuring that there is confidentiality and recognizing the confidentiality issues that the auditors face, we have put an appropriate indemnity in clause 105 of the Bill.

Finally, under the areas which we have sought to clarify or strengthen, I just want to deal with the issue of registration. Sections 25, 26 and 27 of the existing legislation deal with the cancellation of an insurer's registration. We have enhanced these powers in clauses 34 and 35 and given the Central Bank increased powers to restrict the registration of an insurer.

Turning now to provisions that formalize existing practices within the industry, we have put in place a requirement and we have put it in the legislation, for prior consultation on regulations and guidelines. While this had been the practice in the past, the Central Bank was not required to consult. This provision enshrines in clause 290 of the Bill, enshrines in law the approach to consultation that has already been adopted by the Central Bank. So, in a sense, it is somewhat new, but it is a process that has been ongoing in the past—new in the sense that it does not exist in the current legislation.

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

We have also dealt with the issue of guidelines. While the contravention of a guideline is not regarded as a criminal offence and it does not attract civil penalties, financial institutions are encouraged to observe the spirit of the guidelines, and what the Central Bank does, when it goes in to do its normal audits it will check to ensure that the institution is complying with guidelines that it has established. What we have done in clause 291 is to establish a statutory basis for the Central Bank to issue guidelines. So now in statute the Central Bank has this ability to issue the guidelines. We have also moved to make audit committees mandatory.

Right now Central Bank did put out a guideline in 2007 requiring companies to maintain audit committees and most insurance companies have audit committees. What clause 93 of the Bill does is that it makes these audit committees mandatory, and more than that, it requires, it prescribes, that the majority of these directors on the audit committee, including the chairman, be independent directors. So therefore, there will be a need for a minimum number of independent directors on the boards of these companies to start with to ensure that they can comply with the provisions of this Act.

We will also require management and boards to sign off on internal controls and this is something that Members would be aware of, that boards and management do sign off the statement of management of responsibility and so on. What we have done is now require that this be done. It is no longer an optional arrangement.

Then we come to the issue of sales representatives. Now many times people buy insurance on the basis of the representations made by the sales representatives. Many times the sales representatives are in no way competent to perhaps explain all the nuances of the product that they are selling to the buyers of the product. We have started to move in the direction of ensuring that these sales representatives are properly certified.

This will now be a mandatory requirement, however, the Central Bank will have the opportunity in this Act to provide provisional certificates for sales representatives, that is, as we bring the legislation into effect not everyone would be certified immediately. So what we will do is allow for provisional certification, but once that period of provisional certification is in place, the Central Bank will have the right, you know, basically you are no longer certified unless you acquire the required educational and other requirements that are necessary for you to be able to advise people properly on how they should invest their money. We have therefore made this a very important part of this new legislation.

Finally, as I said, Mr. President, we have made membership in the Financial Services Ombudsman Scheme mandatory for registered members of the companies within the industry.

I turn now to the new definitions, and there are basically just three definitions being introduced in this Bill that I think we need to focus on. The first one is “credit exposure”, and I think we all know what it is, which is the possibility of loss arising from a failure on the part of a counterparty; you lend money and the person is unable to repay it. A “financial group” which is defined as a related group of companies engaged in financial services and includes a holding company; and “connected parties”. Connected parties is a big issue. We have defined that in clause 5 of the Bill, and it applies to credit exposure limits in clause 114 because what tended to happen is that people can set up an insurance company and use the premium coming into that to invest in their own company and to lend to their own company. We have established certain kinds of limits that would prevent that kind of connected or incestuous type of relationships between companies.

Finally, Mr. President, I turn to the new provisions which we have brought into the Act, and this is perhaps the most extensive and represents a major overhaul of the legislation. Clause 6 of the Bill seeks to outline the objectives and the mandate of the Central Bank in respect of the supervisory function. We state that the objective is to maintain confidence in and promote the soundness and stability of the financial system in Trinidad and Tobago; and secondly, to maintain an appropriate level of protection for policyholders and beneficiaries of insurers.

One of the smaller items deals with the application of annual fees, and we have also made that mandatory and the Central Bank will charge fees as appropriate for the conduct of its business.

Another area is the credit exposure limits; and this is intended to guard against unsafe concentrations of credit within various groups. What tended to happen is that without these kinds of guidelines, as I said, a company could comprise of a company that is an insurance company and one that is a cement company, and all of the revenue coming into this company and all the cash flows coming in could be lent directly to the cement company—100 per cent—and if the cement company fails the insurance company fails also because they are unable to pay back the money.

What we have done is we have put very specific controls in place over how much lending can take place between connected parties. This was a particular problem as far as the CL group was concerned. There was significant lending between Clico Investment Bank, Clico HCL, Angostura and a number of other companies within the group, including loans to the principal shareholders as well as directors and controllers.

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

So what we have done is we have identified exceptions. We have put the limits in, but we have arranged also exceptions to the limits to facilitate the business of the company. So, for example, if you want to lend to a connected party, and over and above a certain limit is cash secured, we would make an exception for that because the cash is there to repay the liability if the company failed.

We have also made an exception for Government guaranteed debt. So if for example, the Government issued debt, we will accept that even above the limit that would normally apply to connected parties.

We have also allowed for contraventions of these limits to be reported to the Inspector of Financial Institutions, and for the inspector to require the insurer to reduce such credit exposure within a specified period. Most of these systems for managing credit and credit exposure are fairly sophisticated and have been well developed, and we think that once we put these limits in place we should be able to manage the growth of connected party transactions.

2.30 p.m.

As I say that, Mr. President, the other area relates to connected party transactions. We are aware that this has created significant problems for us in the past and I do not think I need to go into it in too much detail. It is a major restriction, but I think it speaks for itself, and members are already aware of some of the issues. What I will point out though is that in clause 115 a connected party—where there are transactions between an insurer and a connected party that expose the group to excessive risk, the Central Bank can step in or set aside or direct that changes be made to any such transaction, and furthermore, require the insurer to limit or reduce its exposure. So the connected party clauses will allow us to manage those risks.

Another risk which we have sought to manage is the risk-based capital which is another major change which we have put into the legislation, and it is probably the single most important change that we have made to the regulation. This change will require insurers to hold in certain cases hundreds of millions of dollars in additional regulatory capital. I am told, for example, that Clico which held about three million in capital, if they existed today, using this legislation would probably require capital in the order of about \$2 billion. So, it is a very significant change between the capital that was required prior to this legislation coming into place and what will be required in order to ensure that the insurer can meet the needs of the market place. So, it is very, very significant.

You would also require to hold appropriate forms of liquidity. Now, what happens in a case like this is that you could have capital but you may not have liquidity. You may have—your capital comes into the company, is invested in

assets, the company may have overextended itself, as happened with the CL group, because the issue of when the CL group first approached the Central Bank was that they had a liquidity problem, not that they had a capital adequacy problem. That eventually morphed into an understanding that it was really a capital adequacy problem as opposed to a liquidity problem, but at the time it was put that way. But the thing is that banks, insurance companies, need to have a certain minimum level of liquidity in order to be able to meet their day-to-day requirements. If they do not, what then happens is that it triggers a run which then requires you to have 100 per cent liquidity, which nobody has and then results in a financial crisis.

So, it is very important that we have adequate capital as well as liquidity requirements for these insurance companies. I should add that a lot of this also is heavily dependent on the insurer's actuarial reserves, and if the actuarial reserves are understated then both the statutory fund—for example, if you are a local branch of a foreign company—as well as capital positions could be very significantly compromised.

So, what I want to say is that a standardized actuarial valuation, therefore, as part of this legislation will be implemented in Trinidad and Tobago for the first time. So, for the first time we are going to have a standardized actuarial valuation methodology, so that we can understand the balance-sheet risk, that we can facilitate cross company comparisons between insurance companies so that we could establish benchmarks for performance of these companies.

So, in putting these in place, of course, we have had to consider, well, does this mean that all of the insurance companies are going to close down in Trinidad? I mean, if you need a few hundred million dollars in capital and you do not have it, what is going to happen? I am, however, assured that a number of quantitative impact studies have been conducted to test the readiness and capacity of the industry to implement the valuation methodology and the risk-based capital guidelines, and the results show that the life insurance industry is generally able to meet the new capital requirements, while some non-life companies will need a bit more time. What we are likely to see coming out of this—but we have put transition arrangements in place. So, it is not that you are going to need \$500 million of capital next week. We have put transition arrangements in place so that it will allow for these companies to raise the level of capital that they require. One of the things that potentially could happen out of this, is we could see some mergers within the industry as companies try to meet the requirements of the legislation.

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

Another very important measure is that of consolidated supervision. We have put the core principles in place. Consolidated supervision is now commonplace in most developed jurisdictions. It has already been implemented in Jamaica, and basically what it does it helps to avoid the attempts at regulatory arbitrage the different companies may try to implement. So, what this does is what I referred to earlier, in that it allows the Inspector access to information from unregulated non-financial entities within a group. So, for example we have two large groups in Trinidad and Tobago: the Neal & Massy group and the Ansa McAl group, both of which have insurance companies, but both of which have non-financial unregulated entities within the group and part of what will have to happen is that they will have to look at how they structure the operations of their groups as we move forward.

Again in terms of consolidated supervision, the provisions are throughout the Bill and they include sharing of information, require the restructuring of groups—so, in some cases what may happen, some groups may put their financial services companies together and create a financial holding company which will be responsible. And the inspector will deal with the financial holding company and all the companies within the group—the ability to conduct onsite examination of members and, of course, prudential requirements. So, I would not go into that. The establishment of a financial holding company, I said particularly where there are mixed groups structures, there is a need for, perhaps, to establish—in most cases we will see the establishment of financial holding companies to deal with the activities of the financial segments of those groups, and particularly clauses 64 and 66 of the Bill refer to that.

I am turning to corporate governance: as I said before, the annual reporting obligations for the board of directors such as, for example, notifying the inspector of any developments that may pose material risk. So, if for whatever reason something comes up in the course of your undertaking of your own business which you think creates a material risk, it is incumbent on you to immediately inform the inspector that this particular issue has arisen and the intention is so that we get on top of these risks as early as possible

Another issue which some directors may find a bit intrusive, but, basically, you have to notify the Central Bank of your resignation or departure from the board and the reasons for such departure. This will also apply to auditors and actuaries just to ensure that there are not any untoward issues that the inspector needs to be aware of and, of course, submission of an annual report regarding the total remuneration paid to directors and officers will be required once this legislation goes into place. So, there are quite a number of issues that will impact on how the boards and the management of these companies are managed going forward.

There are a number of enforcement tools and, as I said, some of these came over from the prior legislation. I would not go into that. We have kept, as I said, many of the fines in keeping with fines in the FIA and the FIU and so on, so we have kept those more or less in line. There have been issues of things like pyramid schemes and so on, and the Central Bank will have the power to examine the affairs of an unregistered person that it has reasonable grounds to suspect is carrying on an insurance business or the activities of an intermediary. So, Central Bank will have a lot more discretionary authority than they previously had and will also be able to issue compliance direction or seek inactive relief or issue cease and desist orders. So, the intention is to—

Mr. President: Minister, you have three minutes more.

Sen. The Hon. L. Howai: Well, and then, of course, Mr. President, there are the administrative fines—*[Interruption]*—which, as I said, are more or less in line with what is there in the other legislation. The publication of financial statements will now be required. Priority for policyholders on winding up: This is very important, because many times policyholders find that their claims are subject to other claims on the institution, so therefore we have given them priority in winding up. Similarly, the settlement of judgment claims: Basically what has happened is that the insured has had to go to court to get their money and when they get their money they are told, “Well, we could pay you over the next five years.” So, all of that we are doing away with. The insurer must settle all judgment claims within 40 days of a judgment unless there is a stay of execution. The clause will also prohibit an insurer from entering into an agreement to settle a judgment.

There are a few other areas, Mr. President, but they are not very significant. The penalty for fraud we have put at a fine of \$10 million and imprisonment for 10 years in the case of a director/officer and a fine of \$20 million in the case of an entity.

So, finally, Mr. President, in closing, I just like to say that this is a constitutional Bill and hence the Preamble declares that this Bill is one which has to be passed by no less than three-fifths of the Members of both Houses. I wish to draw your attention, specifically to the provisions dealing with ownership of insurance at clauses 64, 69, 70 and 71; they are quite easy to identify. What is clear to the Government is that to delay any further the upgrade of our existing insurance legislation would be to leave our citizens and our country far too exposed to undue risk. This Bill is an unmistakable demonstration of the Government’s commitment to eliminating these risks and promoting a stable financial system and greater protection for citizens.

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

Mr. President, the 2008 global financial crisis, and closer to home, the CL Financial crisis, have shown how vulnerable we leave our citizens and our economy, if we do not address the inadequate regulation of the financial system and lack of protection of consumers of financial services. Mr. President, it falls on us to bring these measures and to ensure that all the gaps are filled and all the loopholes are closed. I therefore ask members to carefully consider the proposals in the Bill in the context of the lessons learnt on the domestic front and from the current global financial climate. As an additional measure of caution and completeness, out of an abundance of deep concern for our citizens and because of the complexity and far-reaching effects of this Bill, it is proposed that this Bill be referred to a joint select committee for further consideration.

Mr. President, with these words, I beg to move.

Question proposed.

2.45 p.m.

Mr. President: Sen. Deyalsingh.

Sen. Terrence Deyalsingh: Thank you very much, Mr. President. As I rise to make a contribution on the Insurance Bill, 2013, Mr. President, it is the norm whenever a Minister puts up the lectern to speak, we get out our pashminas, gloves, we order coffee, food and hunker down for a 20-hour debate. I am glad to say that the hon. Minister said the key words at the very end of his presentation, that is, we are going to a joint select committee, therefore the good news is, I will not be spending more than 15 minutes on this piece of legislation. [*Desk thumping*] First time those on the Government have thumped their desks for me, Mr. President.

Sen. George: No, it is not for you. [*Laughter*]

Sen. T. Deyalsingh: Mr. President, this Bill—

Hon. Senator: Let us hope the others follow.

Sen. T. Deyalsingh: And yes, I hope other Members follow suit. [*Laughter*] So we have before us a piece of legislation, the Insurance Bill, 2013, consisting of 12 Parts, 294 clauses and nine Schedules. This Bill needs to be put in the context of the 2007 financial global crisis stemming out of the loss of confidence in the US sub-prime mortgage markets. But, Mr. President, the world does not learn, and many people think that we should have learnt in Trinidad years ago from the collapse of entities like International Finance—[*Interruption*]

Sen. George: Trust.

Sen. T. Deyalsingh: International Trust, financial haven Swait and so on. We have not learnt and the world has not learnt because if you go back to the year 1977, which is about 35 years ago, where I first heard the term, “chaos theory” or “butterfly theory,” where the then country, Thailand, was not as developed as it is now, and their currency, the baht, was devalued and that led to a total Asian contagion which eventually spread to Brazil and this part of the world. And who would have thought, that the devaluation of the then Thailand baht would have led to global contagion. So the world does not learn and we do not learn, so we have to learn the hard way. So, that is the sort of global context that this piece of legislation is in.

The legislation, however, is going to articulate with many other pieces of legislation, for instance, the motor vehicles third party legislation and de facto the whole entire mortgage industry/finance industry and rightfully so because these stand-alone pieces of legislation have to be articulated in some way. It touches fundamentally on the whole financial industry, pension funds as the hon. Minister mentioned—life insurance/annuities. But the problem we are being faced with now in Trinidad is that the horse has bolted and we are now trying to close the stable doors. That is the problem we are being faced with now.

The key is, how do we balance those competing interests of too much legislation which stifles the industry and too little legislation which gives rise to mavericks?—and we know what a maverick can do. We have had it here, we have had it abroad, we have had it here with International Trust. In the past, we have had it with the Bernie Madoff, the Arthur Andersens of the world, so we are not unique in that aspect. But the balancing act is a very delicate one, because if we go too far to one extreme, we stifle growth. If we go too far to the other extreme, we create the mavericks. This is where I just want to refer to one part of the legislation, Mr. President, just for the consideration of the joint select committee, just to demonstrate to the public who is listening to us and to the insurance industry, I think we have some members of the insurance industry here, key stakeholders, people from the Ministry of Finance and the Economy. If we look at one part of the legislation, because I promised I would not be long, if we turn to Part VI, Compliance Directions and Injunctive Relief, and we look at subclauses (4), (5), (6), down to subclause (10) of that specific part. If the hon. Minister would like to follow so we can see what challenges we will be faced with at joint select committee. Subclause (10)—

Hon. Senator: What page?

Sen. T. Deyalsingh: Page 153 hon., page 153. I am dealing with Part VI which starts on page 151, Compliance Directions and Injunctive Relief. Subclause (10) of that particular part which stems from clause 182, so subclause (10), if you can permit me, Mr. President, it says here:

“A person who fails to comply with directions under subsection (4), (5) or (6) commits an offence and is liable, on summary conviction in the case of—

- (a) an insurer or financial holding company...
- (b) a director or officer, other employee or agent, or principal representative of an insurer, holding company or financial holding company, to a fine of five million dollars and to imprisonment for five years...”

This particular subclause, I am asking the hon. Minister to consider in joint select committee. Is it that in sections 4 and 5 of the Constitution which give us our rights and so on, here we are taking away somebody’s rights by putting them in prison. My question is, the offences under subclauses (4), (5) and (6) which attract the \$5 million fine and the period of imprisonment of five years, is this in reaction to an administrative offence or a criminal offence?

So, I am hoping it is a criminal offence because to have a jail term put on for an administrative offence may be deemed to be disproportionate. Is the objective of that disproportionate to the aim or the risk posed? And the reason why I raise that, Mr. President, very briefly, is that as we seek to update legislation, as we seek to update this Insurance Bill, my question is, and it now falls upon us as a Parliament—notice I use the words “us as a Parliament,” because the Minister was very gracious in recognizing the work done by previous administrations. So in keeping in that vein, I want to throw it out to the hon. Minister, we have other pieces of legislation, for example, the Companies Act, Chap. 81:01 of 1995 and the Financial Institutions Act, Chap. 79:09 of 2008, and if one goes to the offences and penalties, let us say under the Companies Act—so I will just deal briefly with the Companies Act, just to see whether we are comparing like with like. We talk about: fines of \$10,000, is guilty of an offence and liable on a summary conviction to a fine of \$10,000.

So the Companies Act which has similar provisions for administrative offences only attracts a very low fine of \$10,000 and that is populated throughout the Companies Act, that type of fine. If we go to the Financial Institutions Act, Chap. 79:09, 2008, where the fines are contained in the Fourth Schedule, and if one goes to the Fourth Schedule where the licence fee is \$125,000. So again,

these, penalties are much lower. So the question I am asking, should we be looking at the entire suite of legislation that governs the entire industry: the Companies Act, the Financial Institutions Act, and bring some sort of harmony to all these fines? That is the question I am asking because one particular piece of legislation may look disproportionate when we juxtapose it to other pieces of legislation. But I am particularly concerned, Minister, under clause 182, Part VI, Compliance Regulations, are we sending people to jail? I just want an answer, are we sending people to jail for administrative offences or criminal offences? I am hoping it is for criminal offences. If it is fraud as you spoke about, I have no problem because somebody should have gone to jail over Clico. As we say in local parlance “somebody shoulda make ah jail”.

Sen. Singh: There is still time.

Sen. T. Deyalsingh: There is still time, lovely. So, Mr. President, as promised, I will be very brief. I highly recommend the establishment of a joint select committee. You will find no resistance on this side to the aims and objectives of the piece of legislation. It is needed, it is overdue, and I also want to recommend to the hon. Minister that under Part II of the legislation, clause 6 which deals with the role of the Central Bank, I have a particular pet peeve with the way the whole Clico issue was handled and I am hoping that the Central Bank will now be empowered, given the necessary backbone both in terms of legislation and leadership will. I want to repeat that, that the Central Bank should have the necessary backbone, based on legislation and leadership will, to enforce whatever provisions they have.

So with those very few words, Mr. President, I keep my word to you, very short, and I thank you. [*Desk thumping*]

Mr. President: Sen. Ramkhelawan. [*Desk thumping*]

Sen. Subhas Ramkhelawan: Thank you very much, Mr. President, and in keeping with the lead taken by my hon. colleague on the Opposition Bench, I will strive, though I cannot promise, to be short. [*Laughter*]

Hon. Senator: Try hard.

Sen. S. Ramkhelawan: There are a few thoughts that I would like to share with the Minister, and mindful that this matter is going to go to joint select committee, I will be as brief as I can in pointing the way to some of the issues that we must address.

Insurance Bill, 2013
[SEN. RAMKHELAWAN]

Tuesday, June 18, 2013

First of all, better late than never. This piece of legislation has been long overdue and if it were brought to the Parliament within a reasonable time, we would not have had the fiasco that is the Clico fiasco I am not speaking to any other fiascos that have taken place in recent times. The situation was one where we, and I say we all as taxpayers bore the brunt of inefficient and insufficiently broad legislation to deal with those persons who, in many ways, may have breached the laws of Trinidad and Tobago. And as a result, we the taxpayers, all of us here and all of our citizens out there, would have had to fork out by most recent count, about \$20 billion of our money. And that \$20 billion, it has been said before, would have constituted some 15 per cent of the GDP of the entire Caribbean. Because it was not only we in Trinidad who would have been affected, it was also the case with our cousins and neighbours all across the Caribbean. So I say better late than never even though I would have preferred it not to be late.

Now, this piece of legislation came into the mill as far back as 2002, and if I may recount, it was in that year that a committee was formed by the then administration—Cabinet-appointed committee—to look into the financial services sector and to seek to determine the types of reforms and the nature of reforms that would be required. I was fortunate or unfortunate, depending on which way you look at it, to have been a member of that committee, the work of which became a Green Paper on Financial Reform and subsequently morphed into a White Paper. But all of that came from that Cabinet-appointed committee. And many of the challenges that we would have faced in the insurance sector is because the legislation in fact lagged behind some of the developments that took place and resulted in this deep hole in our pockets from which it will take us quite some time to recover.

I was heartened here today to see the children of Siparia Presbyterian School—

Sen. Singh: KPA.

Sen. S. Ramkhelawan: KPA Kabir Panth Association I am told, but I was also told some other thing when I spoke to them. And, Mr. President, that is the reason for life insurance. Our children, those who succeed us, they are the reasons for life insurance. And life insurance is really a sacred trust. It is a trust that is placed within the hands of those who provide that service, insurance services, especially life insurance. What happens in life insurance? Somebody comes to you and says, “Look, you know, if you drop dead tomorrow, what will happen to your children? If you were per chance walking across the road and had an argument with a bus

which you lost, what will happen to your children?" That is the way life insurance has been sold in this country, and if I am not mistaken, continues to be sold in this country.

3.00 p.m.

So let me start at the back end when I say that I am very heartened to learn in this piece of legislation that training, development and established standards of capability will be sought. I certainly will be looking at those clauses very carefully, to ensure that persons who are given, in a sense this sacred trust, and who are making this sacred promise that if anything happens to you, your children will be taken care of by dint of you having paid your insurance lump sums, or your successors, your beneficiaries, will receive a lump sum so that they can take care of the children and the household. So that one is very, very important.

I say it is important because those are the persons who had the responsibility to go out into the market, the insurance market, and they would have been saying in the case of Clico, your money is secure, and in the case of every other insurance company, your money is secure. You know why? Because there is a statutory fund and all your moneys are guaranteed by that statutory fund which has sufficient funds to make all payments to you. "Don't worry, be happy." Be happy that that statutory fund is of a sufficient size, and in my other hat, persons would have come to me and said, "Look, I am worried. I am very worried. What is happening with that insurance company?" And, of course, not knowing all the inner machinations of that company and not wanting to, in any event, cause consternation in the system—because a system works or breaks down because of confidence in the system—you ask the question: "Well, are you sleeping well at night?" And the person would say, "Well, no, I am not sleeping well at night. I worried. I have all my money there, but it making 11 per cent or 10 per cent for me and I can't afford to move from 11 per cent to 4 per cent."

The old axiom is, if something is too good to be true, it invariably is too good. So that when those right-thinking persons who measured and balanced risk with return, said, "Well no, there is something wrong here. Something is very wrong here and I am not going to take my hard-earned money and put it there for 11 per cent when I am very doubtful and uncertain that I will get it back." And this brings into question, moral hazard and the role, not only of the regulator, but also of the policymakers. Because, what happened?

In the end, those of us who were careful, those of us who were shrewd, those of us who were vigilant were asked to put our hands in our pockets and pay for those who were not, and that must never happen again in this country. We must

Insurance Bill, 2013
[SEN. RAMKHELAWAN]

Tuesday, June 18, 2013

be strong enough as policymakers and as lawmakers to say, “You take the risk because you want that return.” All that is required of us to say in the interim, is we want to ensure as lawmakers and policymakers that you are going in with your eyes wide open. Again, proper disclosure, proper transparency, proper accountability, Mr. President, and that is where some of the opacity has taken place in the existing antiquated anachronism, that is the Insurance Act, 1980.

So I am not going to commend the Minister for taking this bold move, because it is not a bold move. I am not going to commend the Minister for bringing it in 2013, 12 years after it was determined to do so. It is a necessary intervention, but it is an intervention which has caused us a painful pecuniary lesson, collectively. But what I would commend the Minister for, is that the Bill seeks to address some of the deficiencies that existed in that 30-something-year-old Insurance Act which is in place now, and I speak particularly and I will start with reporting.

All of us, if we wanted to get information on an insurance company from the perspective of the regulator, which is the Inspector of Financial Institutions, we would be at pains to get anything. When was the last time you saw an insurance report covering all of the insurance companies? What is the latest report that we have? Is it 2006, 2007, 2008, 2009? I want to bet that it is not in double digit figures, 10, 11, 12 or 13. If it is, I have not seen it; I have not seen it published; I have not been able to go somewhere to access it. So reporting is an extremely important part of the equation. If you were to go and look for that, you are not going to see it. So now the Bill brings forward the reporting requirements.

I, therefore, will not have any hesitation in supporting the new reporting requirements from insurance companies who are now required to report with audited accounts within a short time frame of 90 days, I believe the figure is; whereas, before we could not get information from the regulator. The better insurance companies, the more efficient ones, would have their audited reports and so on. And so, this question of reporting is important and, certainly, I am going to support that and look at it in much more detail as it goes to joint select committee to ensure that we have all the bolts and nuts tightened as well as they should be.

I want to turn, secondly, to what is really the core, the core of this piece of legislation. What is insurance? We are taking moneys from all of these people, and we are getting these funds in monthly or annually, as the case may be, when we write a particular policy. We take these funds and we invest them out to meet what is the estimated payment on a life insurance contract or other contract way down the road. That is where the trust comes in. So if anything happens to you,

you will get a lump sum. It might be a million dollars, \$3 million, \$2 million, and you have to pay the tiny sum of \$3,000 a month, as the case may be, or whatever that figure is. Therefore, in the flow process from the receipt of moneys—I have spoken about, those persons who go out and sell insurance and cause funds to come in—to the management, which is the processing in-between, and to the investment of those funds to ensure that when those funds are invested that returns will come to the insured within a period of time. The hon. Minister spoke to the credentials and bona fides of those persons who are required to operate insurance companies from various perspectives:

1. the directors and management;
2. the auditors;
3. the actuaries.

All of them, we need to tighten the oversight on these various players. Some would say, “Well, why?” I would say, “It is important that we get the reporting and the monitoring and the regulations right.”

I, myself, agree with Sen. Deyalsingh, that sometimes the regulators need to play a much more stringent role than they have been doing, and we take the case in point the debacle that would have taken place in the Clico situation. The regulators have said, “Well we did everything we could do. We operated within the law.” But because the notion of consolidated supervision which the hon. Minister spoke to was not fulsomely in place, we had a situation that arose where it was regulatory game playing, where we can dodge the bullet by hiding behind one piece of legislation as against some other piece of legislation.

And so, when you looked towards insurance the game was actually in investment banking, and when you looked in investment banking the game actually morphed into mutual funds, and when you looked there it was round and round the mulberry bush where we can dodge and we can hide. But I think that the regulator is still culpable because the regulator had certain powers under the Banking Act, and sometimes you just need to pull the thread here and you will cause everything to unravel.

I often remember that story about that famed gangster, Al Capone. Many thought that he would have bashed in so many heads with a baseball bat, but nobody could prove it and nobody wanted to come forward to make a case. But he was not caught and he was not imprisoned because of what was alleged about bashing in people’s heads with a baseball bat. He was caught on what? Avoiding

Insurance Bill, 2013
[SEN. RAMKHELAWAN]

Tuesday, June 18, 2013

the revenue; not paying his taxes. And so, our regulators put their hands up and say, look, my hands are clean, and try to convince us that their hearts are pure and no mea culpa, but the fact is, they had other whips in their hands, but they did not crack the whips at the appointed time. So I hold no brief for the regulators, and I believe that it could have been done.

But getting back now, I have spoken to reporting, I have spoken to the need for consolidated supervision, and I will say to the hon. Minister, you will get my 100 per cent support with regard to consolidated supervision, because we do not want a repetition, we do not want people to hide behind one screen or the other. Let us see the whole hog. So, that support is there.

But I want to turn now to, as I said, what the core was, Mr. President, and the most significant change in my view has to do with risk capital rules. We are moving insurance companies from just the minimum capital requirement to a capital requirement which says, that if you hold these level of assets and based on the riskiness of the assets, you are going to have to cough up more and more capital. It is not a new concept. It has been around in banking circles for quite a long time. It is something which in the securities area we must seek to ensure that we introduce, because it is not embedded in the legislation but it is provided for in the bylaws.

And so, we now come to insurance. In terms of insurance, this most significant area seeks to address for each category of asset and in some cases in terms of liabilities as well, how this capital count is going to go.

3.15 p.m.

I know that many of our citizens would not be aware of this—in fact, blissfully unaware of this very elemental change that is taking place or is set to take place in insurance legislation in this country. What does it mean? The hon. Minister spoke about the situation in respect of Clico when he said that if we had such capital count, they would have had to have capital set aside in the billions to support a \$100 billion book.

I support the notion of risk capital wholeheartedly. Of course, as the joint select committee does its work, we would want to ensure that there is a proper balance between risk capital and returns. Because I want to make the point that we want to protect the policyholder, but we also want—remember that insurance is a business, and if it is not allowed to do its business, albeit in a well-regulated manner, it will not be able to meet the needs of the insured.

By that I mean that, as I said before, if the business of insurance companies is to take in funds on an ongoing basis, manage those funds, and take those funds and invest them out into the future so that the investment returns will be sufficient to pay the insured, what happens? If the rules are far too strict, if they are of such a nature that does not allow the business to invest in a way to pay returns, then the *raison d'être* for insurance companies will fall away; it is not a business that they would want to be in.

I want to raise the point that the capital rules that may apply to other jurisdictions must take into account the peculiar circumstances, and where risk is in this country, in terms of the size and scope, must be taken into account. By that I mean, one, that if we apply exactly the same rules then we must have on the other side exactly the same investment opportunities for insurance, which is essentially an investment firm—a long-term investment firm.

I see in some of the legislation which I would want to bring to the attention of that joint select committee to be established, that if you take some of the jurisdictions from which we are pulling precedent—Canada seems to be the main one—if you take that jurisdiction, in that jurisdiction, the opportunities for investing—whether it be in bonds—are wide; they are broad and they are deep and therefore, you have a wide playing field into which you can invest. Take people's money, promise them a payment in the future, take the money, invest it in such a way that you can deliver the payment in the future.

Now, that is not the case in Trinidad and Tobago, and therefore, when we seek to look at what we are doing, we must make sure that there is a harmonization of sorts in terms of raising money and where you place money as an intermediary, and if that is not the case, then we do not have an excellent basis upon which to build. Because we have to balance the interest, not only of the policyholder, not only of the regulator, but also of the shareholder, and that is very important because sometimes we lose sight of that in terms of the size and scope and development of our own jurisdiction and trying to implant and import a framework which is workable, but the count which may not. So I want to raise that with the Minister even before this joint select committee gets down to its work, that it is very critical.

There is another point and that is the point with regard—if I could drill down a little bit into the capital rules, some of which I have had a look at. In applying measures of riskiness and capital related to riskiness, we are seeking to apply a credit rating framework. So I ask the question: Is the credit rating framework that you are using appropriate to our own situation? But beyond that, on a larger scale,

Insurance Bill, 2013
[SEN. RAMKHELAWAN]

Tuesday, June 18, 2013

the question really is: an insurance company or the insurance sector is an important accumulator of funds for placement in various investments—bonds, mutual funds, invested in mutual funds, equities.

I come to the question of equities, because in the legislation, there seems to be a penalization of equities, and what will happen is you are going to essentially strangle the return aspect of insurance companies if you do not get the balance right. If you are all in bonds, and if your capital count is biased towards bonds, then you are going to be essentially biased against equities.

But what is it, hon. Minister, do you want for the development of our capital market? I make that point because you have been—sorry, through you, Mr. President, the hon. Minister has been touting that we want to make here a regional capital market, a regional financial centre, and there are certain attributes that we must fit if we can become a regional financial centre or regional capital market. For us to best utilize the resources that we have, we must be able to help to build the equity market, and we must be able to have important accumulators of funds invest in those markets and the insurance industry is, indeed, one such main player, because the insurance industry has funds to the extent of over \$20 billion to invest.

I will put in context—I have put it in context before—the deposits in the banking system available for investment is about \$83 billion; in the Unit Trust Corporation, it is about \$20 billion; in pension funds, it is about \$20 billion; in the NIB, it is just over \$20 billion. So if you cannot utilize those funds in a particular way for the benefit of the system and the society, if you do not get that balance, it is going to be a situation where there is a misunderstanding of our size and scope. I make that point for the attention of the hon. Minister to ensure that as we go forward, these matters are dealt with.

So, these are some of the initial thoughts as we go forward in terms of the Insurance Bill, 2013, and I hope—and I know that we would have the opportunity to speak at greater length and in greater depth with regard to these matters as regards insurance.

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

Mr. President: Sen. Henry.

Sen. Dr. Lester Henry: Okay, thank you, Mr. President, for allowing me to join in this debate on this very important, timely and perhaps, as the Minister indicated, long overdue piece of legislation, as we have worked on for over 12 years, I think he noted. I will make some general comments and also a few specific comments, especially regarding some of the issues raised by all of the speakers before me, namely the “big elephant” in the room, that is, what happened with the CL Financial/Clico debacle.

Now, I would start by saying that, where the previous speaker, Sen. Ramkhelawan mentioned as well, this whole idea of us becoming a financial sector—a major financial sector in the region. Now, this is something that is, of course, always a laudable goal, but one of the things that we must keep in mind is what is our relationship with the rest of Caricom, particularly in the area of financial services. The region has been struggling, of course, particularly the Eastern Caribbean, and of course, Jamaica in recent times, struggling to get their economies going. One of the main areas that many of the smaller islands—including Caiman Islands and others—see as a potential growth area—and they have been doing so for several years—is the area of financial services and insurance is, of course, a key part of financial services and, of course, there is also the very vibrant offshore sector in terms of financial services that are offered by many islands and that is good.

But, one of the problems we face is that we tend to compete with one another in the region in many areas of financial services. This could perhaps lead to a race to the bottom as we try to outdo one another in terms of putting forward legislation that opens up our economy and makes things more attractive to foreign financial flows and so on. So what we have to do is try to balance the goals of each particular territory with, to some extent, a level of cooperation.

Because, take for example, Mr. President, that when we look at the offshore sector and the possible threats of the American FATCA legislation, I was recently at a financial services conference in Antigua—well, not so recent, several months ago—and what was clear coming out of that meeting was that the region, rather than cooperating with one another, was trying to see who could cut the best deal with the Americans first, rather than try to say, “Well, let us go as a group and negotiate with Washington and see what we could get that could benefit everyone.” Because of the far-reaching consequences, I am sure the Minister is well aware of that by now.

I was happy to hear that the Minister said that the Bill was checked for compatibility with the Caricom Financial Services Agreement. He did not mention the agreement by name but he said that they checked it for compliance in terms of not—[*Crosstalk*]

Hon. Senator: Harmonization.

Sen. Dr. L. Henry: Right, in harmonization—right, that is the word that he used. But also, we have to go a little bit further, while that is very commendable, and necessary, we have to go a little further, and look at the harmonization and

Insurance Bill, 2013
[SEN. DR. HENRY]

Tuesday, June 18, 2013

possible conflicts with things like the Economic Partnership Agreement. It has to be checked for that. It also has to be checked for the current negotiations that are taking place in terms of the Canadian Trade and Development Agreement that is currently under negotiation. Of course, that is particularly a touchy issue for the Caribbean and even Trinidad and Tobago, in particular, because we have significant Canadian interest here in terms of the banking sector—RBC, Scotia Bank and so on. So when we do our financial legislation, in this context, in this period, it is very delicate in terms of not only seeing to our domestic requirements, but making sure we do not run afoul of our international commitments.

3.30 p.m.

Now, of course, the EPA is already signed into existence. The Canada agreement is coming up sometime soon; that we would have to deal with. And, in terms of—for example, let me just give one example for today—we would have more time as Sen. Subhas Ramhkekawan said—like the statutory fund requirement for foreign companies, as the Minister pointed out, where you would move away from the statutory fund for domestic insurance companies for local insurers but keep it in place for the foreign.

Now, there is a possibility that could come up under the Economic Partnership Agreement, or depending on what is actually agreed to within the trade and development agreement with Canada. So, these are some of the issues that you might watch and see, because you could also be accused of saying: “well that is discriminatory. Why are you having one rule for local and why are you having a different rule for foreign companies?” So, that is one of the issues that we would have to seriously look at, if it was not done so already.

How does the Bill mesh with our international agreements that we are already part of or that we will be part of pretty soon, because the Canada agreement has a substantive chapter on financial services? I worked on it myself, so I know it quite well, okay.

I would come back to the statutory fund towards the end in a few minutes as we all will stick by the agreement not to give the full monty today on this Bill. But, in terms of the Clico situation that we all must refer to, to some extent, when we talk about insurance, I was happy to see the kind of construction of a Glass-Steagall-type firewall where you will put limits on the third-party interaction. That is something that we definitely need.

Sen. Singh: What is Glass-Steagall?

Sen. Dr. L. Henry: Okay, the Glass-Steagall is the American Act that was repealed back in 1997 which for 60 years protected the financial services from all of these less than arm's length transactions. It was very, very critical in freeing up the financial sector and many believe that that was the single piece of legislation that would have prevented the financial crisis of 2008, that we all suffered from the consequences during that time.

So, okay, as I said, that type of protection is something we would definitely welcome and is necessary, because we have seen the problems caused by unbridled markets, especially when we have that kind of interparty transaction that goes on unchecked. The Minister was quite correct, in terms of how he described the baking company and the financial company interacting, and so on.

Sen. Singh: To roll in the dough.

Sen. Dr. L. Henry: So, that certainly is long overdue and very much welcomed, in terms of our financial system here.

Now, I would like to deviate a little from what was said before, in terms of the insurance companies and in particular the Clico situation. We must keep in mind that at the highpoint of Clico's reign towards the mid-2000s, roughly about 2005/2006—you will understand why I say highpoint in a minute—Clico was taking in close to 70/75 per cent of all premiums in long-term insurance. Now, that alone—because if you look at the chart from the Central Bank data and so on, you would see Guardian Life, this one like 200 million, whatever; other company, 25 million and then you would see Clico, billions, three billion, totally. I mean, just looking at the charts it should have been alarming to anyone and say: Well wait, what would one company know so much better than all the others that it could rake in three billion in one year, as opposed to just normal companies raking in 150/200 million in premiums and so on—so that alone.

What I am pointing to is a possibility that we could include some kind of regulatory trigger as to when one company gets to be so large. I know people in the insurance sector are not necessarily in agreement with what I am saying because I have had comments from particular insurance people who do not really like the idea that there could be limits on their size, primarily because I believe each one of them feels they should be able to become big like Clico if they want to. It is their right to think like that but we, as administrators and protectors of the public interest, should have a different outlook in terms of protecting, not only depositors but our economy as a whole.

Insurance Bill, 2013
[SEN. DR. HENRY]

Tuesday, June 18, 2013

So, in terms of this legislation, it may not be able to be incorporated there. Maybe we have to look at competition policy, something of an old word or phrase, but we have to deal with some of these issues, because competition policy is something that has been thrown by the wayside in the current frenzy to have open, unbridled free markets over the past 20 years or so. But we should not look at these issues and say: Well listen, should there be a trigger? For example, should a company of that size remain a private company? Should it be forced to be listed on the stock exchange where the transparency requirements would be much greater?

I think I heard the Minister allude to something like that but I am not sure if he was thinking along those lines. So, things like that, where we would have to get involved more directly and say: Listen, we are not going to allow one person to monopolize the system and it could be across industries, not just the insurance.

Now, of course, the problem with the Clico situation was that it became so huge, too big to fail and many believed too big to jail. And many of them still think so, apparently, even now and that is what has been confronting us in a significant way over the past five years in particular, starting late 2008, to now. And how do we address those issues? I mean, there must be a way in which countries, not just here because we are not the only ones struggling with this, the Americans, the Europeans, and so on—and they have been delving into far-reaching legislation, in terms of controlling their financial markets.

So, whereas there is the rhetoric about free markets and not interfering, and so on, if you look at the regulatory changes being adopted in the European Union, in America, and so on, it is quiet extensive. Because for one, they understand the dangers of the negative fallout that goes along with having these large companies and financial entities run riot. So we must not shy away from that.

Now, just one last tidbit on the Clico issue. We know that we passed legislation in both Houses to help protect the Central Bank and to give Clico some breathing space—this would be roughly about two years ago—and the company, as the Minister pointed out, has shown some signs of revitalization in terms of premium revenue and so on, it which we must actually feel good about as taxpayers, as citizens. Now, my only point on that is, do not threaten that revival of the company by making unnecessary or willy-nilly changes in terms of how it is being run currently, because I am a bit worried that some of the interference I am hearing may cause a reversal in the performance of the company if certain things are interfered with.

Recently we had a report in the media that Mr. Yetming was thinking of quitting and we have not quite gotten a logical or at least an open explanation as to what is the real issue there and there are other people in the company who will be sadly missed if the company turns out to be mismanaged and I made reference to the appointment of a particular individual in my last contribution, which is very worrying. Okay.

The Government must be careful, in terms of handling the company going forward. Because, again, you could have the best legislation possible, but if you do not have the people involved to carry the thing through, to run the institutions properly, then you are “spinning top in mud.” As I have said before in this Chamber, you cannot set a good field for bad bowling. So, if you have the people in place and the company is running and seeming to recover, be careful how you interfere with it. I am sure the Minister is aware of what I am speaking.

Now, I would just take a few points on the Bill itself before I close off. I have several points that I would like to put forward as an initial set of comments on the Bill. I notice that we have stayed away from nationality requirements—that is my first point—of board members and of ownership of the company and I think it is something we should consider. I believe the Canadians still have nationality requirements in place and we could learn from them. I know we want to be open and encourage foreign investment, and so on, but that is something we should consider. I did not see it mentioned in the Bill. I think the only requirement was the company must have someone who is normally resident in Trinidad and Tobago, without a citizenship requirement. I think that is one point we could consider.

Also a very important point—in case, I would be happy if I missed it but I did not see it, is the timelines for the Minister and the Central Bank to approve the applications of new products and new licences. We cannot just say: The Minister, after checking with the Central Bank, will approve the licence or whatever, and the Minister takes what, 10 years? Or he takes his sweet time? We see that as a normal obstacle to prevent new entrants, and so on. In many of the advanced legislation, the Minister has a 30-day period or a 90-day period to make a decision. You cannot just say it is up to the Minister or up to the Central Bank, without imposing a limit. So the Central Bank Governor or the Minister could just twiddle his thumbs for years and somebody is waiting on a licence or waiting an approval of a new product. So, that is one of the considerations I did not quite see, maybe it is hidden somewhere.

Now, the Minister also was quite peeved, and rightly so, that we took 12 years to bring it to this stage. And whereas I fully agree with that, I was wondering if the Bill and if the country could benefit from a renewal clause, where this legislation will have to be updated every five years, such as the Canadians—*[Interruption]*

Sen. Deyalsingh: Good point, good point. Excellent point.

Sen. Dr. L. Henry:—to prevent that kind of thing from happening again. Okay. So we could possibly consider the inclusion of a clause such that will force us to come back every five years and update the legislation. [*Interruption*] No, you do not have to have it in everything but given the rapid evolution of the financial system, globally, it is something to consider seriously. And, of course, I mean, the widely held clause, I know we do not want—people are not in favour of that such as the Canadians where you cannot own more than a particular proportion of shares, and so on. That is something we could consider but I know there is not a whole lot of support for it, locally.

Now, of course, the higher capital requirement will force a concentration of companies in the sector. So I have heard some smaller insurers complain that we might only end up with about two or three real serious companies in each of the areas. Now, nothing may necessarily be wrong with that. We might have economies of scale, and so on, that could make it actually more useful to consumers in terms of their cost, but we must give that very careful consideration.

So I agree with the higher capital requirement, but we have to look at some of the implications in very much detail, which I am sure will happen in the joint select committee.

3.45 p.m.

Now, my final point, but perhaps the most significant point in terms of the statutory fund, which I said I would come back to. Now, the statutory fund removal and going to risk-based management somewhat like the banks, so you are treating the insurance companies just like the banking entities, and as the Minister said, that is the international best practice now in the advanced countries.

One of the things we have to deal with here now is that if my information is correct, we tax insurance companies based on returns from the statutory fund, and if you eliminate the statutory fund, what is your basis for taxing the insurance companies? And my understanding is that the Board of Inland Revenue has not really made any kind of headway in terms of dealing with that issue. So, you have risk-based capital which is the modern thing, no problem, but has the Board of Inland Revenue been working on what is the alternative when you remove the statutory fund in terms of how are you going to tax the insurance companies? So, I think that is an issue we need the Minister to clarify and tell us what is the way forward with that issue. The rest of my comments, I will reserve for whenever we come back at committee stage of this Bill.

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

Sen. Helen Drayton: Thank you, Mr. President. I will be very brief on this Bill. In response to corporate failures and the loss of billions of investors' dollars, successive Governments have responded to such issues by creating commissions of enquiries which go on and on, and to a large extent, apart from with another big bill, we end up with reports that tell us most of what we already know. Governments otherwise all over the world have responded by implementing robust legislation. We know that our local corporate world is replete with corporate failures of one kind or another, due largely to poor governance, poor regulation and short-sightedness, and these failures whether they include Winsure, Summit Finance, International Trust and several others culminating in Clico and HCU, we have been spectators to abuse of the law—whatever laws existed. We have been spectators to greed, unethical behaviour for which the taxpayers have borne the brunt. We know we are a society where law enforcement is not necessarily taken as a serious issue as much as we would like to believe it is, and the culture is not one that treats seriously with white-collar crime and professional ethics.

Much has been said this morning with respect to Clico, but if we consider that the board members of Clico and the HCU, members of their audit committee, members of their finance committee, senior managements within these companies, they all believe that they provided excellent stewardship and excellent governance of their institutions, then it is not too difficult to understand the complexity of our situation. I certainly agree that legislation is necessary. I support legislation 100 per cent, but we must not overlook the sight, overlook the issue of culture, that legislation is not going to change culture, it certainly will facilitate good governance. It is at that point I sort of depart a bit from remarks made by Sen. Ramkhelawan and the Minister of Finance and the Economy, that if this legislation were in place, then Clico would not have happened. Well, of course, I think that overlooks the issue of culture; it overlooks the issues of and implications of election campaign financing; it overlooks the issue that Clico disregarded the laws which govern it; it overlooks the issues that there were failures on the part of the regulator to enforce the law and, of course, it overlooks the maverick style of corporate governance of which the regulator was well aware. So it is not just an issue of legislation. There are other serious issues that we as a society must deal with if we are to get the type of governance that we require across the spectrum.

Be that as it may, we have the Bill before us to regulate the insurance industry. I support that this Bill must go to a joint select committee to be fleshed out. The previous Insurance Act has been around now, I think, for about 32 years, and that is notwithstanding the excellent strides of the insurance industry, including their more diversified product range, which features short-term hybrid products.

Insurance Bill, 2013
[SEN. DRAYTON]

Tuesday, June 18, 2013

Now, this Bill has been around yes, since 2001, and through you, Mr. President, the hon. Minister made comments with respect to that. It has been around—I recall I was in the bank at the time—since 2001, and all I could say that was due to what I would call consultation paralysis, which is exactly what is happening with proposed legislation for the credit union industry. So that I hope once again, we are not fiddling while parts of Rome burn.

The basic objectives behind this proposed legislation are to strengthen corporate governance in the industry, detect and reduce risk, provide protection for policyholders, and it is designed to strengthen supervision of the industry. I am certainly not going to go into all the critical components of the Bill. I just want to touch on one or two and that is the greater powers and resources of the regulator and inspector, and sometimes one has to raise the spectre, you know, who would guard the guards, given what has happened in the recent past. Much has been said with respect to the increased capital requirements and introduction of the risk-based capital, and the standards for operating and reporting. I will touch briefly on the improved requirements for disclosure because I think that goes to the heart of protection of the investor and the policyholders.

We can have all—you know, this Bill of 309 pages, loads of clauses, pretty much like the Securities Act, which was passed around December or thereabouts, but the improved requirements for disclosure, I think, is the most potent force in protecting investors. And as I have said before that, if the policyholders and investors in Clico and the clients of HCU had the material information that was available at the regulators, they may have thought twice as to where they were putting their hard-earned savings. So in the final analysis, I think that it is information which allows clients to make informed decisions that in the long run, I think is the best protector of the investor and the economy.

Under Part II of the Bill, there are robust powers of the inspector to examine all aspects of the insurance company and connected parties; this is another important aspect of the Bill. Now, initially, when we have fleshed out this Bill and it becomes law, compliance by some, if not all of the players in the insurance industry, may very well be a challenge, but the proposed law will include a transition period. And, of course, there is a downside to that because after waiting since 2001 for the legislation to come, we certainly do not want to end up in a situation where really it is going to be five years before the law could be fully—or certain critical aspects of the law could be fully implemented. Now, there is always a cost to compliance, but in the final analysis it pays off with less malfeasance and, therefore, better protection of the insured and there are always synergies to be achieved between compliance, cost efficiency and effectiveness in the long run.

On the one hand robust legislation and regulations are definitely necessary to protect policyholders, the wider industry, and consequently the economy. And on the other hand excessive bureaucratic regulations could seriously handicap growth, competitiveness and cost-effectiveness, and I think that was well-articulated in the brief contributions today. After what the country has been through and is still going through, with respect to the \$24 billion bailout, I would opt always for robust legislation that is operable and permits efficiency and competitiveness.

With respect to the capital requirements of \$15 million for long term, and general insurance, and \$22.5 million for composite companies, the reality is that I do not think the insurance business today is for what we can term capital-constrained players. That is the reality of the situation. And this law will raise the fence for market entry, but I do not necessarily believe that by raising the bar we would necessarily reduce competition, as somewhere the line has to be drawn in the sand between those enterprises with the strongest potential to survive, and weather economic storms that impact small markets like ours. Global financial meltdowns are certainly not events of the past, they are going to be features in the future landscape. So that is another reason for strong legislation, and also dealing with some of the issues I mentioned when I opened this contribution to deal with professional ethics, to deal with culture and to deal with campaign financing.

A major shift with this Bill from the current legislation is the introduction of the risk-based capital regime to replace statutory fund, and Sen. Lester Henry mentioned one aspect of that, which is the current taxation of 15 per cent on the income of assets backing the statutory fund. So, that given the role of the insurance industry in mobilizing long-term funds, how the new taxation is applied and the amount is a matter for consideration.

Of course, of particular interest in this Bill is the strengthening of the fit and proper guidelines, conflict of interest requirements and approvals for interlocking directorships outside of the financial group. The Bill is specific on persons debarred from management and governance, and what I would like to add in that regard, is that the Government will be well-served by adopting some of these excellent principles in this Bill, with respect to management and members of the boards of directors, with respect to state boards, especially those like the national insurance company and other state companies which manage large financial assets.

The Bill calls for mandatory audit committees, and for the board and senior management to confirm the adequacy of internal controls, and to declare to the inspector any material risks; that is excellent.

Insurance Bill, 2013
[SEN. DRAYTON]

Tuesday, June 18, 2013

4.00 p.m.

In scrutinizing the Bill, there is certainly a higher standard of accountability in the proposed legislation than what exists currently. It comes closer to the US Sarbanes Oxley Act of 2002 with respect to accounting standards and protection of investors—not quite there, but it is a step in the right direction because that Act requires a higher standard of responsibility, accountability and transparency in the financial reporting and it places a greater burden on the CEO, the chief financial officer, the audit committee of boards of directors to certify the completeness, the accuracy of quarterly and annual reports and, of course, certain internal controls.

That foreign Act impacts how auditors and lawyers execute their mandates in respect of corporate governance. It is true that the larger and well-known companies here, like the banks, some of the large insurance companies and publicly-listed companies make an effort to improve their reporting, their accounting and the work of their audit committees; but if we examine every major corporate failure in recent times—not just here, but internationally—auditors were complicit. So it is an area for separate legislation and I hope that the Minister, sometime in the not-too-distant future, would address that, would also address the long-outstanding credit union legislation.

With these few words, Mr. President, I thank you.

Mr. President: Sen. Beckles.

Sen. Penelope Beckles: Thank you kindly, Mr. President. Mr. President, I join this debate on a Bill to repeal and replace the Insurance Act, Chap. 84:01. I would like to continue along the lines of Sen. Drayton, but I would like specifically to deal with the issue of governance. Mr. President, save and except the audit committee—and the audit committee is dealt with at 93(1) where it says that:

“The board of directors of an insurer shall appoint from among their number an audit committee, which shall consist of at least three directors—”

It specifies an independent financial expert; and it goes on, at clause 93(4) and (5) to explain exactly what a financial expert is and to specify what the qualifications are.

It also, at 93(1)(b), deals with a qualified accountant and an independent director at (c); but, Mr. President, when you look at the other clauses dealing with corporate governance—and I am talking about 90 all the way to 106—in my humble view, there is not really much information that deals with the exact criteria/qualifications, as are laid out in the audit for the audit committee.

In other words, whilst they are very clear about the audit committee, my question really is whether or not the Minister is satisfied that under the clause dealing with corporate governance, there is really sufficient teeth to deal with some of the concerns that have been raised, particularly having regard to what has occurred in the Clico and the HCU matter.

I am of the view that these clauses really do not go far enough. In other words, Mr. President, I do not see anything in this Bill that really comforts me that one would avoid, for example, a situation like the appointment of a Resmi Ramnarine; the appointment of a person who claims, for example, to have a particular degree and, when you check, the person never even went to that university. I do not see anything that comforts me outside of the audit committee that those issues relating to corporate governance have been dealt with.

Those are the areas, in my humble view, that have caused most of the distress for Trinidad and Tobago when we talk about corporate governance. In other words, what would stop the appointment of persons who are not properly qualified for the positions for which they may be appointed, save and except the audit committee?

Mr. President, I want to go straight to the issues of the fines. I have expressed some concerns about the obsession that this Government has with penalties. The first clause I want to deal with—if I can go straight to clause 268 which says:

“Notwithstanding anything in any other law to the contrary, any complaint relating to an offence under this Act which is triable by a Magistrate’s Court in Trinidad and Tobago may be so tried if it is laid at any time within ten years after the commission of the offence.”

Now, Mr. President, I am trying to understand why is it that—under the Summary Courts Act, you have a limitation period of two years from the commission of the offence and I would really like to know why is it that the Government has put into place this 10-year period after the commission of the offence. I would like to know whether or not this particular 10-year period which they have put in is based on any other similar piece of legislation that we have passed before; or whether or not this is based on some other piece of legislation to which the Government has—there is some sort of comparison. I think that is extremely punitive.

Mr. President, I also want to look at clause 270. Clause 270 says that:

“(1) Except where otherwise provided by this Act or the Regulations, an appeal shall lie to a Judge of the High Court from any decision, direction, refusal, ruling or order of the Minister, the Central Bank, the Board or the Inspector...or made under this Act.”

Insurance Bill, 2013
[SEN. BECKLES]

Tuesday, June 18, 2013

The legislation basically says that—it limits the appeal to the High Court and it also limits what I call certain constitutional rights for individuals who want to challenge the ruling in these particular matters. For example, Mr. President, clause 270(3) says that:

“Notwithstanding that an appeal lies under this Act or under the Regulations from any decision, direction, refusal, ruling or order of the Minister, the Central Bank, the Board or the Inspector, such decision, direction, refusal, ruling or order shall be binding upon the appellant unless on an *inter partes* application made to the High Court for the grant of an injunction before the determination of the appeal, the High Court is satisfied that circumstances exist that warrant the stay of the particular decision, direction...”

Mr. President, this reminds me of the Central Bank (Amdt.) Act where the Government had put in place the denial of certain rights of the applicants to go before the courts and we do know that, as it relates at least to the first instance ruling, that the court ruled against the Government.

I am seeing that, particularly as it relates to clause 270, I have a strong suspicion that if that clause is not looked at again, the Government can find itself in some difficulty simply because it is depriving the citizens of the right to go to the Court of Appeal and, of course, the right to go to the Privy Council.

Mr. President, I would like the Minister to explain how it is possible to enforce clause 275 of the Bill. Of course, I know this is going to the joint select committee, but there are just some things that jump out at me and that is the issue of how would you enforce, at clause 275(1) and (2), which says that:

- “(1) Where a person alleges that or where in the opinion of the Inspector, a registrant has issued or caused to be issued any advertisement which is misleading or objectionable, the Inspector may require the correction withdrawal of the advertisement or any part thereof.
- (2) A registrant that does not correct or withdraw the advertisement or any part thereof...commits an offence.”

I do not see where the issue of what the penalty is, how that is going to be dealt with.

Mr. President, 271(6) says that:

“In any proceedings for an offence under this Act or the Regulations, where it is proved that the person charged intended to deceive, defraud or profit from the offence, the penalty shall be a fine ten times the amount stipulated for that offence and to imprisonment for twenty years.”

Again, I raise the issue of the fact that you have the imprisonment for 10 years plus five times the stipulated fine. Exactly what is the objective when these very, very serious penalties are implemented?

Now, I know that the Government is looking at what has transpired before and it is a question of sending a signal to the public and persons who are contemplating getting involved in the insurance industry and sending a message that what persons have suffered over the last couple years will not be tolerated. But, at the same time, I make the point that when we look at our detection and our conviction rates, particularly in matters relating to fraud and criminal matters generally, where we are seeing now that our detection rate is less than 20 per cent and our conviction rate seems to be not much further off, and we have seen that over the last three years we have been passing legislation where the fines have been very, very stiff fines; very, very stiff penalties and yet we have not seen much deterrents from members of the public. So the question is: should we not focus a lot more on ensuring that the resources that are necessary for all these institutions are put into place?

I have not heard the Minister talk about the issue of resources, but I would imagine that once the legislation is passed that would be a focus. I talk about resources both in terms of infrastructure as well as human resources and the issue of training persons who are involved in the sector, so that they can deliver to the clients and to the population exactly what is needed to avoid the sort of debacle that took place a couple years ago.

With those few words, thank you Mr. President.

4.15 p.m.

Mr. President: The Minister of Finance and the Economy. [*Desk thumping*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. President. Of course, I appreciate and recognize the fact that Senators of all the Benches certainly restricted their comments, and I intend to do the same on this side. Generally, I know that Sen. Deyalsingh had raised some issues regarding administrative breaches as opposed to—and there was hope that some of these fines like \$5 million are related to criminal offences and not administrative offences. I would want to assure the hon. Senator that, in fact, that is the intention and, again, as we go through the legislation, we will identify how we are going to deal with that.

An interesting point was raised and echoed by, I think, a Member of the Independent Bench, concerning the role of the Central Bank. It is not just giving the power to the Central Bank, but also ensuring that the Central Bank acts, and the Central

Insurance Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday, June 18, 2013

Bank has the backbone to act. I suppose that is something that is difficult to legislate. It is something that comes from building a culture within the institution itself, of ensuring enforcement and understanding the role that institution plays.

Again, as one Member said, ensuring that on the one hand we are not too heavy-handed—that we stifle all initiatives and all action—but, on the other hand, we are not so light touched, that anything can happen and nothing is done about it. So it is a question of finding that right balance and, hopefully, whatever type of balance we choose, it would be a balance that leads to the growth and development of the industry rather than some of the debacles that have happened in the past.

There have been some very good points raised concerning concentration limits, concerning the nationality requirements for directors, timelines for giving approvals, tax and so on and tax, particularly, is one that I have turned my attention to. It is urgent that we deal with that. I have asked the Director of Strategy Management in the Ministry of Finance and the Economy to make that a high-priority area that he would coordinate with the Board of Inland Revenue and that is in the process of being addressed currently.

Certainly, the general comment and ensuring that the legislation itself is appropriate to the local environment, we take on board. That has been part of the reason for all the consultations, and it is our expectation that we will be able to find the right balance to ensure that the legislation and the initiatives and whatever we put in are appropriate.

I note the comments and I thank the hon. Senator for the comments on clauses 268, 270, 271, and 275. Certainly, I shall ensure that we pick those up in the joint select committee and, particularly, the whole role of the fines which, again, was echoed in the first comment that was made by the hon. Terrence Deyalsingh. So it is something that we will pick up to ensure that there is consistency, to ensure that they are not draconian, to ensure that we do not find ourselves in a position where the court rules against some of the actions that we take. So, Mr. President, it is very clear that there is a lot of work for us to do in the joint select committee. I am hopeful that we should be able to get that done in the coming months.

One of the points raised also was the issue of the Credit Union Bill and it is my intention to—we do have some answers to give this honourable Senate on an update on the Securities Bill which we intend to do by the end of this month. We have this particular piece of legislation which we hope will be enacted during the course of this year, and we expect to bring the credit union legislation

Insurance Bill, 2013

Tuesday, June 18, 2013

immediately after this piece of legislation. So, certainly, during the course of the new session, I expect that the Credit Union Bill will be laid and, hopefully, early next year—in the first half of next year, the Occupational Pensions Bill.

So with those short words, Mr. President, I am grateful for the comments that we have received and I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Mr. President, I beg to move that a Bill to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes, be referred to a joint select committee comprising an equal number of Members of the Senate and the House of Representatives, and this committee be empowered to discuss the general merits of the Bill along with its details and be mandated to report by July 09, 2013.

And further, I beg to move that should the House of Representatives concur, that the following Senators be appointed to serve on the committee: Sen. L. Howai, Sen. Dr. B. Tewarie, Sen. C. Moore, Sen. H. Drayton, Sen. S. Ramkhelawan and Sen. Faris Al-Rawi.

Question put and agreed to.

Mr. President: Leader of Government Business.

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, I beg to move that this Senate do now adjourn, but before I do so, tomorrow is Labour Day, and we have with us in this august Chamber, the President of NATUC; Sen. James Lambert, and he will bring greetings on behalf of Labour Day on behalf of the Government. [*Desk thumping*]

Labour Day Greetings

Sen. James Lambert: Thank you, Mr. President and Senators of this honourable Senate. Mr. President, I am happy to bring greetings to the labour fraternity that will be celebrating Labour Day on June 19, 2013 on behalf of the People's Partnership Government of the Republic of Trinidad and Tobago.

Labour Day Greetings
[SEN. LAMBERT]

Tuesday, June 18, 2013

Mr. President and hon. Senators of this honourable Senate, Labour Day in the past used to be celebrated in Trinidad and Tobago on May 01 of each year, which was considered to be International Labour Day. But, Mr. President, over the years, through hard work, sweat and tears by several labour leaders in Trinidad and Tobago, people such as Arthur Cipriani, Albert Gomes, Elma Francois, George Weekes, Adrian Cola Rienzi, C.L.R. James and Nathaniel Critchlow, just to name a few, and most significantly, that great stalwart, Tubal Uriah “Buzz” Butler, a Grenadian immigrant who worked in the oil field was instrumental in the development of the labour movement which emphasized the importance of collective bargaining in treating with workers’ discontent and abuses faced by employees.

Mr. President, it was on June 19, 1937 a riot broke out at the Charlie King Junction where several workers lost their lives to bring fruition, which is about to be celebrated on Wednesday, June 19, 2013.

Mr. President, it was the People’s National Movement, the government of that time, through the honourable Eric Eustace Williams, the Father of the Nation, thought it prudent to declare and to recognize the contribution that has been made by this Grenadian stalwart [*Desk thumping*] Uriah “Buzz” Butler, to declare June 19 a public holiday for Trinidad and Tobago in 1973, for which I am very grateful that all other Governments continue to honour and to recognize that holiday given by the honourable Dr. Eric Williams.

Mr. President, that great stalwart was called by our heavenly father on February 20, 1977. Mr. President, this greeting as was said earlier, is on behalf of the People’s Partnership Government of the Republic of Trinidad and Tobago. I thank you. [*Desk thumping*]

Sen. Penelope Beckles: Thank you very much, Mr. President. I join with Sen. Lambert and on behalf of the People’s National Movement I would like to, of course, bring greetings as we celebrate Labour Day tomorrow. Mr. President, I would like to, of course, ask your leave to refer to or talk about just a couple persons, but I first of all want to talk about sister comrade Thelma Williams who died a few days ago at age 98.

“Sister T” as she was called, affectionately known, was one of the founding members of the Oilfield Workers’ Trade Union. Of course, what we find very interesting is many persons tend to die around the time of the celebration of particular events. In her case, she died just five days before, and that in a sense would ensure that every year when Labour Day is held that she would remain in the minds and hearts of the labour movement.

She was a very loyal member of the trade union, a very strong woman and she joined the trade union movement way back in the 19—I do not remember exactly what year, but I know that she was encouraged to join the labour movement by Daisy Crick, and Daisy Crick was one of those persons who was considered to be the mother of the Oilfield Workers Trade Union. It was in 1938 to be exact that Thelma Williams joined the trade union movement. But as they celebrate Labour Day tomorrow, I am sure that she would be no doubt remembered for her contribution and for the fact that she laboured very hard in the vineyard to ensure that the rights of women, in particular, in the trade union movement, those rights were honoured.

And whilst traditionally we know that the OWTU would have been looking at a number of industrial organizations where many men were employed but, in many instances, there are women who played a very instrumental role in the development of not just OWTU but many other trade unions in Trinidad and Tobago.

The famous words of “Sister T” that she is remembered for is: “Man will come and man will go but the trade union stands forever”. [*Laughter*]

Sen. Singh: Raise that in another context.

Sen. P. Beckles: You like that. [*Laughter*] Minister, I am not going there. [*Laughter*] I think she meant that in the context of the trade union movement and nothing else. [*Laughter*]

Mr. President, the other thing I would like to spend just a few moments on is that those of us who have been following very closely the decision by the Government of Guyana—actually the Prime Minister, Sam Hinds, announced on the 13th that they would now have a decision to convene an international commission of enquiry into the death of the academic Walter Rodney who died some 33 years ago [*Desk thumping*] and I thought that it was interesting to mention that. I am sure Sen. Lambert would have been in Fyzabad in 1979 when Walter Rodney spoke.

4.30 p.m.

It is recorded as one of the largest meetings to ever take place in Fyzabad, and he too interestingly enough died on June 13, just a few days before Labour Day. So that, again, you know, the memories of Walter Rodney remain and there are many persons who have been asking for that commission of enquiry for years. I am sure the labour movement would be quite happy that that is finally going to take place, you know, because his death was a great loss to the trade union

Labour Day Greetings
[SEN. BECKLES]

Tuesday, June 18, 2013

movement, but, nonetheless, I am sure they are quite happy. His death, having occurred in June of 1980—and, of course, that was just one year before [*sic*] the very famous Grenada revolution that took place in 1979.

Mr. President, the last thing I would like to do is just to pay tribute, of course, to the Oilfield Workers' Trade Union, that next month would be celebrating their 76th anniversary. It was on July 15, 1937 that the Oilfield Workers' Trade Union was formed, so in a month's time they will celebrate their 76th anniversary. Tomorrow, as usual, thousands of workers will go to Fyzabad to march and to reflect on what has happened over the last year. I, like many others, would attend the little march, and I am sure I will see Sen. Lambert there. He is normally there every year with his colleagues and with members of his trade union. So that—
[*Interruption*]

Sen. George: “I want ah ride dong.”

Sen. P. Beckles: You are going to be down there, Senator?

Sen. George: No. “I say, ‘I want ah ride dong.’”

Sen. P. Beckles: You want a ride down, sure. Be careful of that language, please. [*Laughter*] Mr. President, I think without you asking me, I think I should withdraw that comment. [*Laughter*]

Sen. George: “A lift is what I shoulda say.”

Sen. P. Beckles: Okay, a lift down. Yes, I think that is the better language. On a serious note, Mr. President, on behalf of the People's National Movement, we would really want to wish the labour movement a successful Labour Day 2013 and, as we would say, “Long live the labour movement of Trinidad and Tobago”.
[*Desk thumping*]

Mr. President: Senator Prescott.

Sen. Elton Prescott SC: Thank you very much, Mr. President, and thank you to my colleague, Sen. Subhas Ramkhelawan, who thought that it would be best to take me by surprise and, therefore, allow me no time to waffle.

Mr. President, I have practised in the field of industrial law for quite some time and have come across a large number of practitioners in the field of trade unionism. I think we could call it “the field of”. The element that stands out amongst them is their fortitude, their determination to see that the benefits of the economies within which they work, are distributed amongst those whom they represent, and they represent them manfully.

We are seldom on the same side, because I tend to represent employers without whom there would be no workers—and that is my justification for doing it if ever I am asked—so I get an opportunity to see them and to judge, sometimes objectively, how they approach their work.

Trade unionism has had its ups and its downs, but there is none who will deny that the society, if it is placed on three pillars, one of them is trade unionism, without it we would really be askance. We could not possibly have a foundation for democracy if it were not for their work.

So I pay tribute to those who, tomorrow, will celebrate the years of trade unionism within this country and for whose work we ought to ourselves join in the celebration.

Permit me to mention some names of persons who I have known or read about, and who have contributed to the history of trade unionism in this country. I would have reminded Sen. Lambert of W.W. Sutton. I think is William Woodrow Sutton was his name, who was a member of the—*[Interruption]*

Hon. Senator: Just to mention a few.

Sen. E. Prescott SC:—Seamen and Waterfront Workers' Trade Union. I did not mean to point out an era, I just thought that he was certainly to be celebrated, and since the name comes back to me I must mention it. James Manswell was also a trade union leader whom I admired; he represented the Public Service Association for many years, and then became a private consultant thereafter.

There is a name that comes up every so often because he is very much alive and comments on matters which occur within the society, comments sensibly and at length, Clive Nunez. People are on one side or the other in respect of Clive Nunez, but when the history of trade unionism is written, I am certain that you will find his name there because he has played his part.

During the past year—and I hope I am right about this—we lost Lyle Townsend, one of the younger, if you like, contributors to trade unionism in this country. A militant, very aggressive trade unionist, but who people grudgingly say has managed to get one of the best collective agreements in Trinidad and Tobago, and is much to be admired for all the work that he did—that is the Communication Workers' Union. I know of many who are jealous of that success and will probably like to see it repeated in their own collective agreements.

I want to close by mentioning some who have served in the Parliament, and I know that the list could never be complete, but those are the ones that stand out to me: George Weekes, who to my recollection had been in this Parliament; Raffique Shah and his erstwhile colleague and who is well-known to us, Basdeo Panday, have

Labour Day Greetings
[SEN. PRESCOTT SC]

Tuesday, June 18, 2013

been trade unionists who have served here. The Parliament has benefited from their inputs and they have gone on in their private lives—that is Panday and Shah—to continue to contribute to the society, to the way we think about what we do.

So in recalling all of those names for the purpose of the record, I wish to join with the national community and, on behalf of the Members of the Independent Bench to say, that their celebrations tomorrow ought to be the anvil from which they begin to forge a unity once again, and we all look forward to that. We wish them peaceful celebrations tomorrow, meaningful celebrations and many years of success. Thank you very much, Mr. President. [*Desk thumping*]

Mr. President: I would like to join with Senators who preceded me in bringing greetings to the labour community. Labour, of course, is a very important part of the social contract, the other elements, as I see it, being the Government, business and I think civil society, without which I do not think we can develop in Trinidad and Tobago. They require all of us to get together in terms of the various sectors and representatives of labour, business, Government and civil society. And, therefore, I think that it is very important that labour celebrate tomorrow as representing one of the important components of that social contract. And I thought I would take the liberty of quoting from Jean Jacques Rousseau, who said.

“‘The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate, and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.’ This is the fundamental problem of which the *Social Contract* provides the solution.”

And so while I bring greetings to the labour community tomorrow led by the trade union movement, I do hope that we can start to move, not just uniting the labour movement, but uniting the country by bringing forward all members of the social compact into a contractual force for the development of Trinidad and Tobago. Thank you. [*Desk thumping*]

Sen. The Hon. G. Singh: Mr. President, having established that those who labour will hold the reins tomorrow, I beg to move that this Senate do now adjourn to Tuesday, June 25, 2013 at 1.30 p.m. On that day it is Private Members’ Day so we will continue the debate on the Motion that is under discussion. There are two matters on the adjournment, Mr. President, and by agreement we will do that on Tuesday the 25th.

Question put and agreed to.

Senate adjourned accordingly

Adjourned at 4.41 p.m.