

Leave of Absence

Tuesday November 19, 2013

SENATE

Tuesday, November 19, 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 Sen. The Hon. Anand Ramlogan SC and Sen. Shamfa Cudjoe who are both out of the country.

VACANT SEAT

Mr. President: Hon. Senators, I have received the following correspondence from His Excellency the President, Anthony Thomas Aquinas Carmona S.C., O.R.T.T.:

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/Anthony Thomas Aquinas Carmona
President.

TO: MR. TERRENCE DEYALSINGH

WHEREAS by the provisions of paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, the President, in exercise of the power vested in him, is empowered to declare the seat of a Senator to be vacant:

NOW, THEREFORE, I, ANTHONY THOMAS AQUINAS CARMONA, President as aforesaid, in exercise of the power vested in me by the said paragraph (e) of subsection (2) of section 43 of the Constitution of the Republic of Trinidad and Tobago, do hereby declare the seat of you, TERRENCE DEYALSINGH, to be vacant, with immediate effect.

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 13th day of October, 2013.”

Senators' Appointment

Tuesday November 19, 2013

SENATORS' APPOINTMENT

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
President.

TO: ARCHBISHOP BARBARA BURKE

WHEREAS Senator Raziah Ahmed is incapable of performing her duties as a Senator by reason of her 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, BARBARA BURKE, to be temporarily a member of the Senate, with effect from 19th November, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Raziah Ahmed.

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 November, 2013.”

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
President.

TO: MR. DON SYLVESTER

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:

Senators' Appointment

Tuesday November 19, 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 19th November, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Kevin Christian Ramnarine.

Given under my Hand and the Seal of the President of the Republic of Trinidad and Tobago at the Office of the President, St. Ann's, this 18th day of November, 2013."

"THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.
President.

TO: MR. WAYNE DANIEL STURGE

WHEREAS Senator the Honourable Anand Ramlogan 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 19th November, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator the Honourable Anand Ramlogan.

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 19th day of November, 2013."

Senators' Appointment

Tuesday November 19, 2013

“THE CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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

/s/ Anthony Thomas Aquinas Carmona O.R.T.T., S.C.

President.

TO: MRS. CAMILLE ROBINSON-REGIS

WHEREAS Senator SHAMFA CUDJOE is incapable of performing her duties as a Senator by reason of her 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, CAMILLE ROBINSON-REGIS, to be temporarily a member of the Senate, with effect from 18th November, 2013 and continuing during the absence from Trinidad and Tobago of the said Senator Cudjoe.

Given under my Hand and the Seal of the
 President of the Republic of Trinidad and
 Tobago at the Office of the President, St.
 Ann's, this 15th day of November, 2013.”

OATH OF ALLEGIANCE

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

Archbishop Barbara Burke, Don Sylvester, Wayne Daniel Sturge and Camille Robinson-Regis.

PAPERS LAID

1. Annual Report of the National Insurance Board of Trinidad and Tobago (NIBTT) for the financial year ended June 30, 2011. [*The Minister of Finance and the Economy (Sen. The Hon. Larry Howai)*]
2. Annual Report of the National Insurance Board of Trinidad and Tobago (NIBTT) for the financial year ended June 30, 2012. [*Sen. The Hon. L. Howai*]
3. Annual Report and Audited Financial Statements of the Trinidad and Tobago Heritage and Stabilisation Fund for the year ended September 30, 2012. [*Sen. The Hon. L. Howai*]

4. Annual Audited Financial Statements of the Vehicle Management Corporation of Trinidad and Tobago Limited for the financial year ended September 30, 2011. [*Sen. The Hon. L. Howai*]
5. Annual Audited Financial Statements of the National Information and Communication Technology Company Limited for the financial year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
6. Annual Audited Financial Statements of the Sports Company of Trinidad and Tobago Limited for the financial year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
7. Annual Audited Financial Statements of the Petroleum Company of Trinidad and Tobago Limited for the year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
8. Report on the Winding-up/Dissolution of the Sugar Industry Control Board. [*Sen. The Hon. L. Howai*]
9. Excise Duty (Compressed Natural Gas) Order, 2013. [*Sen. The Hon. L. Howai*]
10. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Children's Authority of Trinidad and Tobago, Children Authority Fund for the year ended September 30, 2012. [*Sen. The Hon. L. Howai*]
11. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Regulated Industries Commission for the year ended December 31, 2011. [*Sen. The Hon. L. Howai*]
12. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Agricultural Development Bank of Trinidad and Tobago for the year ended September 30, 2010. [*Sen. The Hon. L. Howai*]
13. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Trinidad and Tobago Civil Aviation Authority for the year ended September 30, 2004. [*Sen. The Hon. L. Howai*]
14. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the National Agricultural Marketing and Development Corporation (NAMDEVCO) for the year ended September 30, 2007. [*Sen. The Hon. L. Howai*]

15. Report on Activities on Strengthening Parliamentary Practices in Trinidad and Tobago, June 2013. [*The Vice-President (Sen. James Lambert)*]
16. Sessional Review of the Parliament of the Republic of Trinidad and Tobago for the Session 2012-2013. [*Sen. J. Lambert*]
17. Response to the Ninth Report of the Joint Select Committee established to inquire and report to Parliament on Municipal Corporations and Service Commissions on a Review of the Teaching Service Commission. [*Sen. J. Lambert*]
18. Animals (Importation) Control (Amendment) Regulations, 2013. [*The Minister of Food Production (Sen. The Hon. Devant Maharaj)*]
19. Legal Aid and Advice (Amendment to Part III of the First Schedule) Order, 2013. [*The Minister of Justice (Sen. The Hon. Emmanuel George)*]
20. Trinidad and Tobago Housing Development Corporation (Vesting) (Amendment to the First Schedule) Order, 2013. [*The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh)*]
21. Ministerial Response to the Fourth Report of the Joint Select Committee of Parliament on Ministries (Group I), Statutory Authorities and State Enterprises falling under their purview on the Administration and Methods of Functioning of the National Schools Dietary Services Limited. [*Sen. The Hon. G. Singh*]

1.45 p.m.

**JOINT SELECT COMMITTEE REPORTS
(Presentation)**

Municipal Corporations and Service Commissions

Sen. Subhas Ramkhelawan: Mr. President, I have the honour to present the following reports as listed on the Order Paper in my name:

Port of Spain City Corporation

Tenth Report of the Joint Select Committee appointed to inquire into and report on Municipal Corporations and Service Commissions on the Administration of the Port of Spain City Corporation.

Public Service Commission

Eleventh Report of the Joint Select Committee established to inquire into and report on Municipal Corporations and Service Commissions on a re-evaluation of the efficiency and effectiveness of the Public Service Commission.

Ministries (Group 2), Statutory Authorities and State Enterprises

Sen. Dr. Victor Wheeler: Mr. President, I have the honour to present the following reports as listed on the Order Paper in my name:

National Transportation System of Trinidad and Tobago

Twelfth Report of the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 2), Statutory Authorities and State Enterprises falling under their purview on the Administration and Operations of the National Transportation System of Trinidad and Tobago.

New Scarborough General Hospital

Thirteenth Report of the Joint Select Committee established to inquire into and report to Parliament on Ministries (Group 2), Statutory Authorities and State Enterprises falling under their purview on the Commissioning Process for the New Scarborough General Hospital.

**Ministries (Group 1), Statutory Authorities and State Enterprises
National Insurance Appeals Tribunal**

Sen. Elton Prescott SC: Mr. President, I have the honour to present the following report as listed on the Order Paper in my name:

Seventh Report of the Joint Select Committee on Ministries (Group 1), Statutory Authorities and State Enterprises falling under their purview on the Administration and Operations of the National Insurance Appeals Tribunal.

ANSWERS TO QUESTIONS

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. President, we are in a position to answer the following questions: Nos. 5, 16, 17, 27, and Questions for Written Answer, Nos. 18, 19, 21 and 22. The questions that are for written and oral answer directed to the Minister of Energy and Energy Affairs, by mutual agreement with Sen. Small have been deferred, because the Minister of Energy and Energy Affairs is not here.

The other three questions for written answer directed to the Minister of Finance and the Economy will be circulated. Question No. 5 for oral answer is ready.

Mr. President: Leader of Government Business, did you indicate that there was a written circulation of an answer to question 22? I do not seem to have it in my packet.

Sen. The Hon. G. Singh: I think that was a typographical error on my part.

Sen. Hinds: Mr. President, just for clarification. Is the Leader of Government Business here saying that the very simple question about the fire truck, the cost and so on, you are not able to answer that today?

Mr. President: Sen. Hinds, we cannot enter into a debate on that question.

Sen. Hinds: No, I am just seeking clarification.

Mr. President: I know, but this is question time.

Sen. Hinds: I did not know which ones he said he could not answer.

Mr. President: But we are not into the question of which questions are not to be answered. We are on the issue of which questions we are going to answer today. [*Crosstalk*]

Sen. Al-Rawi: May I enquire when the other questions, fire truck and all included, would be ready for answer?

Sen. The Hon. G. Singh: Perhaps it would be ready, but you may not be here. It will be ready in the fullness of time. [*Laughter*]

Sen. Al-Rawi: Mr. President, if I may enquire as to a definition of the fullness of time, please, with all the massive State resources opposite.

Mr. President: I will allow the Leader of Government Business to refrain from answering that question.

WRITTEN ANSWERS TO QUESTIONS

The following questions stood on the Order Paper in the name of Sen. David Small:

LNG Industry (Government Revenues from)

- 18.** Could the Minister of Finance and the Economy provide the Senate with the Government revenues from the LNG Industry broken out into upstream royalties, corporation and other taxes, upside sharing for the period 2010 to 2013?

Ammonia Industry (Government Revenues from)

- 19.** Could the hon. Minister of Finance and the Economy provide this Senate with the Government revenue from the Ammonia Industry broken out into its component parts such as upstream royalties, taxes from gas sales and corporation taxes for the period 2010 to 2013?

**Crude Oil Exports/Refined Products
(Government Revenue from)**

21. Could the hon. Minister of Finance and the Economy inform this Senate of the Government revenue from crude oil exports and refined products for the period 2010 to 2013?

Vide end of sitting for written answers.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

**Fire Service Vehicle
(Details of Retrieval)**

6. A. Would the hon. Minister of National Security indicate/confirm whether a Fire Service vehicle slipped off the roadway at Blanchisseuse and had to be retrieved from a precipice on 17th November, 2012?
- B. If the answer to (A) is in the affirmative, would the Minister outline the procurement process for the award of the contract for its retrieval?
- C. Would the Minister indicate the exact cost of the retrieval, and what action was taken, if any, to minimize the cost to the Fire Service Department/Ministry of National Security?
- D. Would the Minister indicate the date on which the vehicle was actually retrieved and the date of Cabinet's approval of such retrieval; which Minister brought the Cabinet Note and whether the Cabinet had before it, other options in respect of its retrieval and disposal?
- E. Would the Minister indicate the depth from which this vehicle was retrieved off the roadway from which it slipped; and what equipment was used to retrieve same?
- F. Would the Minister indicate whether an investigation and /or a value-for money component was conducted, in respect of the issues around this matter? And if so, what is the status of this investigation? [*Sen. F. Hinds*]

**Ministry of Education/PSIP Allocation
(School and Early Childhood Care Centre)**

9. A. Would the hon. Minister of Education say whether since May 2010, the Cabinet approved any bond(s) to raise money to supplement his Ministry's PSIP allocation for school and Early Childhood Care Centre building construction?

- B. If the answer to (A) is affirmative, would the Minister say in what sum(s); when was this/these sum(s) made accessible to his Ministry and whether this/these sum(s) has/have all been utilized?
- C. Would the Minister further indicate whether his Ministry's total PSIP allocation since May 2010, was also fully utilized and in particular, whether the PSIP allocation was fully utilized in the same year(s) that the bond-issued supplementary funds became accessible for expenditure?
- D. How many such new centres were constructed as a consequence of the availability of these supplementary allocation(s) along with the Ministry's PSIP allocation and at what cost? [*Sen. F. Hinds*]

**Teenage Pregnancies in Trinidad and Tobago
(Details of)**

- 14. A. Could the hon. Minister of Health provide the figures for the number of teenagers in Trinidad and Tobago who gave birth, for each of the years, from 2008 to 2012?
- B. Could the Minister give a breakdown of these figures in the age groups 12 years and under, 13 years to 16 years and 17 years to 19 years?
- C. Could the Minister say what is being done by his Ministry to reduce the number of teenage pregnancies in Trinidad and Tobago? [*Sen. Dr. V. Wheeler*]

**Ministry of Education
(Sex Education in Schools)**

- 15. A. Could the hon. Minister of Education say if the Ministry of Education has a policy on Sex Education in the nation's schools?
- B. If the answer to part (A) is in the affirmative could the Minister say what that policy is? [*Sen. Dr. V. Wheeler*]

**Exploration and Production Licences
(Details of)**

- 16. Would the hon. Minister of Energy and Energy Affairs kindly indicate:
 - A. What is the quantity of offshore acreage existing under Exploration and Production (E&P) Licences;
 - B. How much of that total E&P acreage is under active production or on-going development work;

- C. How much of the total E&P acreage is subject to planned exploration or development works for which the relevant documentation has been submitted for the approval of the Ministry of Energy and Energy Affairs? [*Sen. D. Small*]

**Supply of Natural Gas
(Details of)**

17. Would the hon. Minister of Energy and Energy Affairs kindly inform this Senate as to the status of approvals for natural gas supplies for the following natural gas downstream projects:
- A. Gasfin's Constantine Medium-scale LNG project;
 - B. Eastern Caribbean Gas Pipeline Project? [*Sen. D. Small*]

**Situation at NGC
(Details of)**

27. Could the hon. Minister of Energy and Energy Affairs provide the Senate with:
- A. An update on the take or pay exposure (financial and gas volume) of the NGC as a result of the cancellation of downstream projects including Alutrint and Essar etc.; and
 - B. The strategy being utilized by the NGC to mitigate against the financial and operational aspects of this take-or-pay exposure? [*Sen. D. Small*]

**Environmental Management Agency
(Details of Certificates of Environmental Clearance)**

31. Could the hon. Minister of the Environment and Water Resources indicate:
- (i) the number of requests made between June 2010 to October 31, 2013 for Certificates of Environmental Clearance to the Environmental Management Agency;
 - (ii) the number of requests which were approved, denied and/or pending; and
 - (iii) the organisations, companies, entities and/or NGOs which applied for a Certificate of Environmental Clearance.? [*Sen. P. Beckles*]

**Road Improvement Fund
(Details of Moneys Collected)**

35. Could the hon. Minister of Works and Infrastructure inform this Senate on:
- (i) the amount of moneys collected under the Road Improvement Fund for the period June 2010 to October 31, 2013; and

(ii) the use that has been made by the Ministry of the said funds? [*Sen. P. Beckles*]

Questions, by leave, deferred.

Mr. President: Sen. Hinds.

**Road Traffic Deaths/Murders
(Government's Concrete Action Taken)**

5. Sen. Fitzgerald Hinds asked the hon. Minister of National Security:
- A. Would the Minister indicate the number of road traffic deaths and the number of murders to date, in Trinidad and Tobago for the current year?
 - B. Would the Minister indicate what 'concrete' action is being taken to stem the flow of these frightening trends?
 - C. Would the Minister further indicate the detection rate in respect of murders for the years 2011, 2012 and the year-to-date 2013?
 - D. Would the Minister indicate the sums which have been expended and utilized by the TTPS since January 1st, 2011 to date, as applied specifically to dealing with the two causes of unnatural deaths as described at (A) above?

The Minister of National Security (Sen. The Hon. Gary Griffith): Thank you, Mr. President.

The oral response to Senate question No. 5, in regard to the number of road traffic deaths and the number of murders to date in Trinidad and Tobago for the current year:

Hon. Senators are advised that according to data received from the Trinidad and Tobago Police Service for the period January 01, 2013 to September 30, 2013, the total number of persons who died as a result of road traffic accidents was 125. For the corresponding period, the total number of murders recorded was 289.

Hon. Senators, the disturbing trends of road traffic deaths and deaths by murder continue to be two important national issues being given high priority by the Trinidad and Tobago Police Service. So as I relate to the second question, "what concrete action is being taken to stem the flow of these frightening" developments, the Trinidad and Tobago Police Service remains resolute in its endeavour to keep the nation's roads safe for all users.

With respect to curbing the number of road traffic deaths, one of the priority areas outlined in the strategic plan of the Trinidad and Tobago Police Service is to increase safety on roadways and in other public places through the roads policing initiatives.

In addition, because of the use of the surveillance bays, this has resulted in a marked increase in a round-the-clock police presence on the nation's highways. In addition, there has been an increase in stop and search exercises conducted daily in all nine police divisions.

The increased use of the breathalyzer testing kits during the police exercises, particularly at nights, has resulted in scores of persons being charged for driving over the legal alcohol limit. In fact, during the period January 01, 2011 to September 30, 2013, a total number of 2,005 persons have been charged for driving above the legal alcohol limit. Such exercises are also expected to act as a deterrent to would-be violators of the law, with respect to driving above the influence of alcohol.

Mr. President, even though we have the use of the breathalyzer, it is a fact that on most occasions persons who drive above the speed limit may be individuals who are also intoxicated.

The use of laser speed guns shall soon be introduced as part of the overall traffic management plan for the nation's highways. This obviously will act as a deterrent because you drive over a certain speed limit, you are pinpointed and then on most occasions, you might actually find that persons are driving under the influence.

The rebranding of the Traffic Highway Branch with specially marked vehicles being deployed along the nation's highways has also been a deterrent. To date, a fleet of 50 vehicles have been incorporated under this programme. These vehicles have been painted yellow and blue—and not politically—but because it provides a higher level of visibility and reassures members of the public that assistance is readily identifiable and available.

Mr. President, with respect to murders, the Trinidad and Tobago Police Service continues to work relentlessly to reduce such incidents, and in so doing, reduce the anxiety among the citizenry so that they can feel safe and comfortable.

It is good that this question is drafted to state what concrete action rather than crime plans, because anti-crime initiatives would fail if they are just based on guess and perception. The answer is that there are a number of major anti-crime

initiatives and policies that have already commenced and will commence shortly. This would involve a reduction in criminal activity, but also reduce the perception and fear of crime.

You would recall that one of the concrete actions to ensure that we move as quickly as possible had to do with the recent visit of Mr. Bill Bratton, someone who has proven to be one of the most successful at reducing crime worldwide. Mr. Bratton's policy is not based on us taking a template and just putting it into Trinidad and Tobago, but to ensure the concrete action—based on the question—it is to ensure that through empirical testing, we will look at our threat assessment and then we will come up with the right policies to reduce major criminal activities, inclusive of the murder rate.

One other aspect to note has to do with the installation of GPS on police vehicles. I recall just a few days ago someone mentioned that GPS was actually being removed from police vehicles, and that goes into the situation of the importance of measurement of performance and accountability for the police service. The measurement of performance and accountability will be concrete action to ensure that there would be reduction in criminal activity.

The measurement of performance through the GPS in these police vehicles, through the highway patrol and the Rapid Response, will ensure that we can have the police accountable for where they are, make sure that they are in their area of responsibility and to provide that deterrent, as well as providing a swift response if and when required.

Other concrete actions involve the use of COMSTAT, also dealt with by Mr. Bill Bratton—COMSTAT being “computerized statistics”. This is not just to pinpoint criminal activity, but again working with what we spoke about with the GPS in the police vehicles being monitored from the National Operations Centre, the COMSTAT can also pinpoint where the law enforcement officials are and where they should be to provide that deterrent.

The National Operations Centre would be another concrete action required to reduce major criminal activity, and this would ensure a communicational platform so that all the law enforcement agencies can work together, get immediate information and turn it into intelligence for successful operations.

Mr. President, one of the concerns that we have seen with the law enforcement agencies falling just below par to what is required, is because of the improper training facilities that we have. Through the National Security Training Academy we intend to improve the standard of the law enforcement agencies, and

particularly the Trinidad and Tobago Police Service, dealing with training in roadblocks, in cordon and search, riot control, also the use of an indoor range, and last but not least, customer service training.

As I move on to the question about the detection rate—the question was asked about the detection rate in respect of murders for the year 2011, 2012 and the year to date. The answer for that is, I am advised that statistics provided by the Trinidad and Tobago Police Service have indicated that in the year 2011 the detection rate for murder was 21.9 per cent; 2012, 16.1 per cent, and the current year January 01, up until September 30, 2013, 10.7 per cent, which would increase because as you move along they would get more evidence.

2.00 p.m.

But, Mr. President, again it shows that this has been a pattern, as we can even go back, the question was asked for 2011, but we could go back to 2008 when the murder rate was 547 and the detection rate was 15.9 and that is when SAUTT was at its finest. It shows, Mr. President, that it is not so much the importance of CSI, crime scene investigation, because the same equipment, the same personnel, the same CSI personnel that we had at SAUTT, they just moved across to the Trinidad and Tobago Police Service.

So even though, when the CSI and the forensics and all the high tech data, it was being utilized at SAUTT, the detection rate at that time for murders was 15.9 per cent. The importance, Mr. President, to ensure a reduction—or sorry, an increase in the detection rate has to do with the ultimate element for that support mechanism for the police which has to do with, HUMINT, human intelligence. There is a breakdown in that support element from the law-abiding citizens to provide the law enforcement agencies with that information that is required.

It is a fact, Mr. President, that the more information that is given to the law enforcement agencies, that information can provide the intelligence that is required and that can turn into the evidence, and because of that, it shows the importance for customer service training for the police officers. It shows the importance for us to ensure that police officers can perform above and beyond the call of duty. Which we could recall the statement by Mr. Bratton that was taken out of context, the importance that police officers, where no one is saying that it is mandatory that if a police officer is paid and rewarded accordingly, that he would not be involved in questionable activities, but it is a scientific fact, it is known internationally, we could use Singapore and other countries, that if police officers are rewarded, they are provided with the tools, with the resources and the

remuneration that is required, they will perform above and beyond the call of duty, and also it will ensure there will be a reduction in corrupt activity, in questionable activities, and by doing this it will then allow the citizens to feel more comfortable, more confident with the police service, provide them with that information which will then act as a major mechanism to increase the detection rate.

Mr. President, the last question had to do with—to indicate the sums which have been expended and utilized by the police service since January 01, 2011 to date. Mr. President, with respect to the sums expended and utilized by the Trinidad and Tobago Police Service to treat with the incidence of road traffic deaths and murders, hon. Senators are advised that it would be very difficult to pinpoint the exact moneys expended for any singular policing activity. The reason being, if we look at secondary crime prevention, which is a very important element of crime prevention, secondary crime prevention actually acts as a tool towards reducing crime, but indirectly every single thing that takes place in the Ministry of Education, the Ministry of Health, Ministry of Sport and Youth Affairs [*sic*], Ministry of Social Development, indirectly acts as a mechanism to reduce crime. So it will be difficult to state the budget, what we have spent, to reduce crime.

Not all of the operations as well of the police service can be measured by a dollar value, as in the case with the increased police personnel, equipment, and so forth. Notwithstanding these factors however, Mr. President, and in addition to the regular expenditure by the Trinidad and Tobago Police Service on items such as personnel, training and equipment, the sums expended and utilized by the police service have included purchase of breathalyzer kits at the cost of \$240,950, 50 vehicles in the rebranding of the Police Highway Patrol Branch of \$450 million, purchase of 334 new police vehicles equipped with GPS technology at \$70 million and purchase and installation of CCTV cameras at \$7,718 million. Mr. President, as I close, again, this is just an example where we can see the importance of the concrete action based on the question.

There was a letter that I received from HDC, whereby contractors were being advised that they were being ordered to actually pay persons for them to perform their duty, as high as over \$500,000. This goes in line with what we spoke about recently with gang activity. Through the Rapid Response Unit, this will act as an avenue to ensure that persons are not moving in such a manner where they are actually holding developments to ransom, and individuals, by asking for protection money.

Through the use of the Rapid Response Unit, Mr. President, the National Security Training Academy, proper community policing, highway patrol, the acquisition of proper helicopters, which we will be acquiring next year, UAVs, and proper intelligence gathering and communication, I think it will go a long way towards ensuring that we provide that concrete action and it will show that this is being taken to stem the flow of the frightening trend of the murder rate in this country. Thank you, Mr. President. [*Desk thumping*]

Mr. President: Supplemental.

Sen. Hinds: Thank you. Is the Minister serious to suggest that the visit of Bill Bratton for a few hours and a lecture at the Hyatt is a crime-fighting or an anti-crime initiative as stated?

Sen. The Hon. G. Griffith: Mr. President, if somebody turns up for a conference for one day, that could never be an anti-crime initiative. [*Crosstalk*] What we said is that for years we have been in situations where people have made decisions in anti-crime initiatives based on hit and hope, based on guess, not based on empirical testing, not based on data, not based on research, not based on persons with a proven track record. What Mr. Bratton brings to the table is actually showing us a concept of what should be done to ensure that we will utilize our national security resources in an effective and efficient manner, through that scientific knowledge.

Again, if it is that someone has a proven track record in actually going to different cities all over the world, and has been the most successful in reducing criminal activity, that is a concrete action, because what we are doing, Mr. President, this is not a Mastrofsky, who has never reduced crime anywhere in the world at a cost of \$80 million. This is not a Ross, this is not a Clayton. This is not an anaconda. This is not a Baghdad. This is a situation of somebody who has not just talked the talk, but somebody who has walked it. Somebody who has proven himself, and that is why we are using experts to assist us to ensure that we implement the policies that are required to provide that concrete action, Mr. President. [*Desk thumping*]

Sen. Hinds: Will the Minister agree that Bill Bratton's "broken windows" theory and COMSTAT—that is concepts—were not, when he came, new to Trinidad and Tobago and have been practised in the Trinidad and Tobago Police Service for eons, or for a long time before he came? [*Crosstalk*]

Sen. The Hon. G. Griffith: Mr. President, knowing what to do and how to do it, two totally different things, and it shows the importance again of COMSTAT, computerized statistics. The computerized statistics that we utilized had to do with

Oral Answers to Questions
[SEN. THE HON. G. GRIFFITH]

Tuesday November 19, 2013

pinpointing the crime. Computerized statistics, as Mr. Bratton would bring to the table, it is a different trend. It also has to do with computerized statistics to ensure that the law enforcement agencies would be placed in the manner depending on the criminal—on the statistics. You cannot have proper COMSTAT unless you have a national operations centre. The national operations—if we never had a national operations centre, we could never have acquired the value of COMSTAT.

Sen. Al-Rawi: Further supplemental.

Sen. The Hon. G. Griffith: “Oh goood, they coming after me.”

Sen. Hinds: Is the Minister saying [*Crosstalk*] that that was achieved when Bill Bratton was here or are we to expect him again, at further cost?

Sen. Maharaj: That is not the question.

Sen. The Hon. G. Griffith: Mr. President, again I state that Mr. Bratton, what he brings to the table is to guide us into ensuring that we put the concrete actions that are required, based on the question asked, Mr. President.

Sen. Hinds: The Minister pointed out as a concrete step to respond to the serious crime problem, the introduction of highway patrol and rapid response vehicles. Would the Minister be kind enough to tell us what concrete action has been put in place for the routine service and maintenance of these vehicles so we would not wind up with them being parked up in six months, right back to where we started?

Sen. The Hon. G. Griffith: Mr. President, excellent point, and what I would state, the difference now, is again, it goes to four principles that I acquired from Mayor Rudy Giuliani and Mr. Bill Bratton, that of good management, leadership, measurement of performance and accountability. By showing proper accountability, what we would have now, Mr. President, is preventative maintenance of these vehicles. We will not wait for the vehicle to shut down. We will not just wait until it crashes then we start cannibalizing the parts from a vehicle, and all of a sudden it moves from 50 to 30 to 20. Through preventative maintenance, Mr. President, this again goes with 21st Century policing where we intend to be proactive. We would not wait for the vehicles to break down. Similar to the Rapid Response Unit, Mr. President, there are 51 vehicles that would be operating throughout the country at all times, 24 hours a day, but there would be 77 vehicles in the system to deal with such a measure, Mr. President.

So through preventative maintenance, I am working hand in hand with the Minister of Transport on that, we will ensure that there will be proper mechanism to ensure that we will not have the breaking down that we have seen in the past.

Sen. Hinds: So the Minister is saying that while he introduced these vehicles, he has yet done nothing in respect of the maintenance of them. That is yet to be done.

Sen. The Hon. G. Griffith: No.

Sen. Hinds: Am I clear?

Sen. The Hon. G. Griffith: No. Definitely not so, Mr. President. It is a brand new vehicle. I do not think it needs maintenance after a week. The point being is preventative maintenance. We are not going to wait until the vehicles break down. Based on the number of miles, based on a certain period, there will be a constant check to make sure that these vehicles would be operational at maximum capacity.

Sen. Hinds: Finally, from me for the time being. Is the Minister not alarmed that over the past two years, and in the current year, the detection rate has moved from 21.9 per cent to 10.7 per cent, as you have just stated?

Sen. The Hon. G. Griffith: Mr. President, he could ask me from now until the cows come home, I have an answer for each one. Mr. President, the reason why it is now 10 per cent, it is because if you look at this year, when murders are solved, it takes a while. So by the end of this year a lot of the murders that you see now we will go back into the percentage of what we had before, which was last year 17 per cent; the year before, 22 per cent; the year before that, 22 per cent, but SAUTT however, Mr. President, SAUTT at its finest—[*Interruption*]

Sen. Hinds: “We doh want to hear bout SAUTT.”

Sen. The Hon. G. Griffith:—SAUTT at its finest when they were still trying to sort themselves out, the detection rate, when the murder rate was at its highest, was 15.9 per cent.

However, Mr. President, the detection rate such as this is totally unacceptable, and the reason being again I state, Mr. President, is because the ultimate avenue to increase the detection rate, it is not CSI. It is not persons dressing up in white. It has to do with the HUMINT, the human intelligence, that of the citizens, the law-abiding citizens being prepared to give the information to the law enforcement officers. For us to do that, we have to weed out the rogue elements from the police service. We need to train the police service in customer service. We need to have the citizens feel safe and feel comfortable so that they can provide this information.

As he asked that question, Mr. President, the other avenue to reduce—oh, sorry, to increase the detection rate and to give the citizens that opportunity, we will also be implementing another concrete action plan to increase the detection rate and to provide the citizens with that opportunity to provide that HUMINT, which is something called VIPO, making each and every citizen in this country a virtual police officer. There is a witness to every crime, Mr. President. There is no such thing as a perfect crime. Whether it is that the criminal would have made a mistake at the scene of the crime or someone would have seen something, someone would have known something. What we need to do is to extract this information from the onlookers, from the passerby, from those citizens who want to be part of the process to assist us in reducing crime.

The challenge is that people are afraid to go to established State agencies. They have that lack of confidence or trust that something will happen to them. They have that fear that they will not be able to provide that information and they can feel safe.

Through the VIPO, the virtual police officer, it provides a solution, Mr. President. VIPO is something that is going to be secure, it is anonymous, it is instantaneous and it is effective. It would ensure, through going online, through cyber—you can now provide information in a specific crime and provide the police with the information that they require. Thank you, Mr. President.

Sen. Al-Rawi: Thank you. Hon. Minister, are you able to assist us with the costs associated in answering these questions with the implementation and use of the soldiers, that is the army, the defence force in the fashion that the Government has implemented to date? We have confined ourselves, so far, only to TTPS.

Sen. The Hon. G. Griffith: Which one?

Sen. Al-Rawi: Throughout. You dealt with [*Crosstalk*] the cost in relation to the TTPS. [*Crosstalk*] No. Have the cost in relation to—would the Minister indicate the detection rate, (d)—right—expended by the TTPS. [*Crosstalk*] If I may ask. [*Crosstalk*] Thank you so much for your clarification—not being as jumpy as the Leader of Government Business, but may I ask whether there is a comparison perhaps available? If not now, in relation to the soldier assistance that has been provided so far? [*Crosstalk*] If not, that is fine. [*Crosstalk*]

Sen. The Hon. G. Griffith: Mr. President, I think he might be relating to the fact of soldiers being involved in joint patrols and through that the cost is virtually nonexistent because the Trinidad and Tobago Defence Force—a soldier works 24 hours a day. It is not an eight hour shift, there is no overtime. There is nothing

else that the soldier will get. So the soldier, when he operates in that position and works with the Trinidad and Tobago Police Service in joint patrols, there is no added cost per se because he is still being paid. I really cannot think of any added cost that can come about, other than the fact that, as I have said before, the intention is for police to do policing, and for soldiers to do soldiering, and this is not in any way to take away the fact that what the soldiers are doing right now is not important.

The reason the soldiers are doing this, it is because of the shortage in the police service and this is part of the role and function of the Trinidad and Tobago Defence Force, as an aid to civil power and to support the police if and when required. It is required now because of the shortage of the police and it, again, goes to the importance of management of the police service; getting the numbers, getting the manpower and providing the police with their proper establishment upon which the soldiers can then move off into the echelon that they require, which is dealing with border protection, the forested areas, the rural terrain, to provide that second line of defence after the coast guard and the air guard.

2.15 p.m.

Sen. Al-Rawi: With respect to COMSTAT—further supplemental—that the hon. Minister spoke about a short while ago, is the implementation of COMSTAT as proposed, as you alluded to in brief measure a short while ago, similar to that which was in use by SAUTT prior to its cancellation?

Sen. The Hon. G. Griffith: Mr. President, the concept of COMSTAT, it is something that improves every single year. When COMSTAT started in New York, in the early '90s, COMSTAT has totally changed. COMSTAT can now, actually, incorporate as we—I can use an example, Mr. President, the Rapid Response Unit.

COMSTAT, a few years ago during SAUTT, did not have the system that we would have now in COMSTAT, whereby you can actually pinpoint every police vehicle in the Rapid Response Unit through the GPS on a major screen, monitor their location, make sure they remain in their area of responsibility. So if there are three to four vehicles that have to deal with Diego Martin or Chaguanas, we can now, through computerized statistics, we can monitor them, see where they are, pinpoint targeted areas based on time of the day, based on the area, based on an event, we can then utilize that machinery on the system to be able, not just to pinpoint criminal activities, but now to utilize the law enforcement assets to assist in the reduction of crime in that area.

So, it is an ongoing phase that continues to improve with COMSTAT. It is not a template that has been set, but every single year COMSTAT, just as CSI, just as forensic testing, these things improve every single year. So, the computerized statistics that we had in SAUTT, which would have been of value, I agree, it has now stepped up a notch.

Sen. Al-Rawi: Further supplemental, the hon. Minister referred to national security training, is the hon. Minister able to assist us with the implementation of the National Training Academy which the hon. Brigadier Sandy as Minister of National Security announced, upon the cancellation of SAUTT, would have been implemented by 2010, that was somewhere in or around December 2010, what the status is, perhaps, of that?

Sen. The Hon. G. Griffith: Sure. Mr. President, the National Security Training Academy is, in fact, up and running. It is led by someone who, I think we all know, who is probably, arguably, one of the most successful and well-known persons in the defence force in his day, Brig. General Carl Alfonso, and there are many different policies, training that has already been implemented in the last year or so, through the National Security Training Academy. I can provide that at a later date, Mr. President. But in addition to this, the National Security Training Academy would complement the present training facilities in the Trinidad and Tobago Defence Force and the Trinidad and Tobago Police Service, systems that we could never have implemented before because of cost benefit analysis.

An example, Mr. President, is that it is unacceptable in the 21st Century that we want our Trinidad and Tobago police officers to perform but they do not have a range, a shooting range of their own. But the cost for an indoor range would have been astronomical. Through the National Security Training Academy, we can then pool the resources and every single soldier, law enforcement officer, in the air guard, the coast guard, they can now utilize the indoor range.

There was never a facility to do a proper cordon and search, an area to train for roadblocks, an area where it is that we have the police and the army working together out in the streets but they are not able to train, so through this they can be able to train together for riot control drills, dealing with specific types of training for counter-revolutionary warfare, counter-terrorists drills, drills to deal with VIP protection for the President and the Prime Minister. So, it is important that we have a system such as the National Security Training Academy to facilitate the type of training that they were never provided for in the past. [*Desk thumping*]

Sen. Dr. Henry: Would the Minister—my question just requires a very simple answer, yes or no, I think.

Sen. The Hon. G. Griffith: Certainly.

Sen. Dr. Henry: Would the Minister admit on a—was he aware, before inviting Mr. Bratton to Trinidad and Tobago, that Mr. Bratton's policies have been associated with the worst form of racial profiling, police abuse and through his stop-and-frisk policies, result in tremendous amount of lawsuits anywhere he goes, and this type of action is seriously contested in terms of whether it is actually effective or not? Were you aware of these facts before inviting Mr. Bratton?

Sen. The Hon. G. Griffith: Mr. President—*[Interruption]*—the fact remains that people only throw stones at trees that bear fruit. I would expect them to criticize Mr. Bratton. But the fact remains as well that scientifically it has been proven, whether it is Detroit, Boston, Los Angeles, New York City, and even in London, that the man has proven to be the most successful in reducing crime. *[Desk thumping]* And that is a fact.

So the fact remains, Mr. President, that based on perception of what might be seen, what I am dealing with is scientific fact, and the fact is, the man has proven to be very successful, and our job is to extract information on what he has achieved and see what can be utilized here to provide the concrete action that is required.

Sen. Dr. Henry: Further supplemental.

[Sen. Al-Rawi stands]

Mr. President: Senators, the time has now expired for question time. My Clerk has indicated that, of course, 2.15 p.m. was the cut-off time. I have indulged you somewhat, but unless the House as a whole agrees to continue questioning time, I cannot allow further questions at this point—*[Interruption]*

Sen. Al-Rawi: I have two questions to question five, Mr. President—*[Inaudible]*

Sen. Singh: We will allow five minutes. *[Crosstalk]*

Mr. President: And therefore, the question is whether the question time period should be extended for this House and, if so, for how many further questions? Shall we say not exceeding two more questions?

Sen. Singh: Yes, I think it could be—say two. Two questions.

Mr. President: I understand from the Leader of Government Business that two more questions, supplemental questions, would be permitted. Sen. Henry.

Sen. Dr. Henry: Oh, sorry. [*Interruption*] I was just about to ask the Minister if the reputation that follows Mr. Bratton in terms of his racial profiling and thing does not mean absolutely anything to him?

Sen. The Hon. G. Griffith: Mr. President, the answer obviously is no. Obviously if somebody is involved in something like that, then you would be concerned, but we have no such information based on something like that. If that was the case, I shudder to think that the United Kingdom would ask for an individual like this to be the Commissioner of Police in London.

Sen. Al-Rawi: Thank you. Hon. Minister, you referred a little while ago to the use of laser guns for speed as a tool for enforcement, is the hon. Minister able to tell us whether legislation is to accompany that implementation, and if so, when it would be laid? Perhaps it is on the mysterious legislative agenda of the Government?

Sen. The Hon. G. Griffith: Yes, Mr. President, it is in the hands of the Minister of Transport. I think that should be coming about sometime later this year or very early in January, and the number of those guns we will be acquiring will be 400.

Sen. Singh: Mr. President, I merely want to indicate for purposes of the record that the answer to question 22 has been, in fact, circulated.

Mr. President: Thank you.

INSURANCE (NO. 2) BILL, 2013

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 [*The Minister of Finance and the Economy*]; read the first time.

Motion made: That the next stage of the Bill be taken later in the proceedings. [*Hon. L. Howai*]

Question put and agreed to.

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 administer pension fund plans and for other related purposes, be now read a second time.

Mr. President, 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 to maintain an appropriate measure of protection for policyholders and beneficiaries.

You will recall that this Bill was introduced here in the Third Session of the Tenth Republican Parliament on May 28, 2013 and it was subsequently debated on June 18, 2013. It is therefore not my intention today to rehash all the details and go back through the full debate on this Bill. What I would seek to do, with the leave of this honourable Senate, is to give an overview of what has happened since the last debate, what has happened at the level of the Joint Select Committee, and to give a brief overview of some of the issues raised in the debate and where we are currently with respect to the present Bill.

During this debate, hon. Senators had raised several concerns, and these related to issues and I would not go into all of the concerns in detail. But what I would seek to do is to highlight the key ones and perhaps give a brief update on where we are currently.

The first issue related to, of course, the taxation of insurance companies, with the removal of the statutory fund. I would simply say that work on that aspect of the legislation has commenced. There is a committee which has been established to deal with issues relating to the implementation of the Bill and issues relating, therefore, to taxation, and there is a team supporting this committee made up of members of the Board of Inland Revenue which is specifically addressing the issue of taxation. The issue of the appropriate balance between risk capital and return is an issue that we are currently considering. It is something that we are very much aware of and it certainly will be incorporated in the comments which we will receive and consider and evaluate at the Joint Select Committee stage.

Another area that had been identified is a local credit rating framework and we have taken steps with CariCRIS to start addressing this. There were a few other areas such as concentration limits, the issue of fines, corporate governance requirements, timelines for approvals by the Minister of Finance and the Economy and the Central Bank, and all of these will be addressed during the stage of the Joint Select Committee.

Insurance (No.2) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday November 19, 2013

Subsequent to the debate, Mr. President, which occurred in this honourable Senate, the matter was referred to a Joint Select Committee pursuant to resolutions that were passed here on June 18, and then a subsequent resolution passed in the House of Representatives on June 21. The Members of the Joint Select Committee were: Mr. Larry Howai, Dr. Bhoendradatt Tewarie, Mrs. Christlyn Moore, Mr. Subhas Ramkhelawan, Mrs. Helen Drayton, Mr. Faris Al-Rawi, Mr. Stephen Cadiz, Mr. Jairam Seemungal, Mrs. Carolyn Seepersad-Bachan, Dr. Delmon Baker, Mr. Colm Imbert and Miss Marlene Mc Donald.

Mr. President, the committee held one meeting on Friday, June 28, and during that meeting, it was agreed that recognizing the fact that the Third Session of the Tenth Parliament was drawing to a close, that we would address the following essential elements in order to progress the work of the committee.

We agreed that we would undertake widespread stakeholder consultation, given the fact that the last consultation on this Bill had taken place in 2009, there had been a hiatus between that time and the present time, and the expectation of the industry as well as the expectation of the committee itself, that we should reopen that whole consultative process and give members and stakeholders of the industry sufficient opportunity to make representations to the Joint Select Committee.

We also asked for written submissions and comments on the Bill, and we said that we agreed that we would request those via the print media and we had established a deadline for those comments of August 31, 2013. We received comments, I am pleased to say, from a number of stakeholders. We received nine responses to those ads and we have also made a decision that specifically we will invite the Central Bank to make presentations to the committee, given their involvement in drafting the Bill, and that we would seek written submissions from other key stakeholders if those are not included in the batch of nine which we received. These would include ensuring that key players in the insurance sector do, in fact, provide their recommendations.

We also agreed that we would secure an independent expert via the Parliament from a commonwealth country, that is, a country which has a similar type of legal jurisdiction as our own. We did, in fact, do that and we have received so far 12 applications which the new committee will evaluate, once we reconstitute the committee going forward, subject to the approval of this honourable Senate.

2.30 p.m.

So, at the end of our deliberations at the first Joint Select Committee, and the only meeting that was held, the committee reported to Parliament as requested within the deadline that had been advised, and the committee recommended that in the Fourth Session of the Tenth Parliament that a similar committee be appointed to complete the work begun by the original committee, and secondly, that the new committee be empowered to adopt as part of its records the work done to date. So what we did, Mr. President, is seek to preserve the work that had been done by this committee over the short period of time of its existence.

So that is where we are at the current time with respect to the Bill, and with respect of the deliberations of the Joint Select Committee. I have given a brief overview of some of the points which were raised in the debate. I want to say that this Bill represents a very comprehensive overhaul of our insurance legislation. It deals with issues of governance, structure, capital requirements, the registration process, duties and powers of the inspector, and in accordance with international best practice, it removes the statutory fund mechanism and introduces the risk-based capital ratios for local insurance industries.

The importance of this Bill for us, Mr. President, is that we have a vision for where the financial services sector in Trinidad and Tobago should be over the next decade and how we want to see it transform. Today, the financial services sector accounts for over 15 per cent of GDP. It is the second largest sector after the energy sector; second by a long way because the energy sector is 44 per cent of GDP. But nevertheless, it is a sizeable part of GDP—and growing. At present, it operates under the 1980 Insurance Act which by international standards is outdated and therefore we need to pay some attention to that. But our vision for this sector, is that, I am not just saying the insurance sector, but the entire financial services sector, is that we want to make Trinidad and Tobago the premier destination for investments in financial services in the region; we want to make Trinidad and Tobago the premier financial services destination. And to do that, what we are looking to do is to develop different aspects of the industry. One part will be the back-office operations which we have started over the past year to develop. We have made changes to the legislation to allow certain kinds of tax benefits which will encourage the investment in that sector.

I am very pleased, as I said in the budget speech, when we read that speech, that in the past year, we have been able to attract over TT \$250 million in the new investment in the area, and we have been able to create 1,000 new jobs in that particular sector over the past year. So that has been a significant improvement, a

Insurance (No.2) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday November 19, 2013

significant advance, but of course, there is a long way to go if we are to develop that part of the business. We have started that process and we have identified a number of initiatives which we will continue to work towards in order to expand that part of the business.

The next part of the financial services sector would be the insurance and the banking sector. We do have the strongest banks in the region, well capitalized, very diversified, a wide array of services and so on, that are offered, and the next area would be the insurance sector which we are seeking now to strengthen by way of this piece of legislation.

To move forward, beyond that, we want to build the rest of the sector, the capital markets, the debt markets, the equity markets, and we want to make Trinidad and Tobago a player in the regional capital markets also. But to do that, therefore, we need to put in place a strong regulatory framework. Without a strong regulatory framework, we will not be able to attract the type of investments we want nor will we be able to grow the sector in the way we want, because we will always be susceptible to the types of risks that—and the types of meltdown that occurred with respect to HCU, CL Financial and so on. Therefore, we are looking to strengthen that regulatory framework with this Bill. After we have implemented this Bill, we will move to implement the Credit Union Bill, the Occupational Pension Act and so on. So we have these coming, one after the other with a view to ensuring that we build a comprehensive legislative and regulatory framework for the financial services sector.

I want to say, Mr. President, that again, in the area of building out the capital markets, we have introduced a number of new initiatives over the past year. We have listed the First Citizens shares and we are looking at the possibility of perhaps issuing some more at an appropriate time. We have listed the CIF, the Clico Investment Fund. We are looking at listing a number of new companies early next year, included in that is recently acquired shares of Phoenix Park gas processors which will be the first energy-based stock which would be on the local stock exchange. We are also looking at introducing strategic investors in partnerships in a number of key companies which need additional investment in order to ensure that these companies continue to grow. We are looking eventually to list these companies, again on the stock exchange.

Our goal is to multiply the number of companies on the stock exchange and to ensure that within the next five years, set a target for the Ministry that we should seek to double the number of companies on the stock exchange in the next five years. [*Desk thumping*] We have identified a number of initiatives for doing so

which we will roll out in the course of time. One of them would be the couple of companies I mentioned just now, which would be like Phoenix Park and—such as Phoenix Park.

The stock market, I have to say, had a very good year this year and I suppose my colleague, Sen. Ramkhelawan could probably speak more on this and I could, but I have to say that, you know, in looking at the numbers, the All Trinidad and Tobago Index grew by 15.7 per cent. That is a very positive rate of growth for the stock market given the fact that once you put your money into deposits and so on, the rates of interest is 1 and 2 per cent. If you were in the All T&T Index, you would have gotten a return of a little over 15 per cent.

The value of stocks which have traded are up by \$1 billion over last year—this year over last year. So it is a significant growth in terms of the number of trades taking place, and the volume of trades are up by over 100 per cent this year over last year. So there is a tremendous return of investments into the stock market that we are seeing and I am looking forward that by the end of this year, we would have seen a tremendous growth in the stock exchange.

So, the point is, Mr. President, that focusing on this piece of legislation, apart from ensuring that we put things in place to avoid the abuses that took place in the past, reduce the risk that we have had to endure with respect to the CL Financial meltdown and so on, protecting deposit, protecting policy holders and investors and so on, it is also creating the framework for the growth in the industry in the years to come. So this is very important for us. The insurance industry accounts for \$23 billion in assets currently. It grew by 8.7 per cent in 2012, and growth premium expanded by a little over 8 per cent also in 2012. This excludes the figures for Clico. So we are starting to see that the growth in growth premium of the individual annuity component of the industry is not 8 per cent—sorry, Mr. President—it is 5.8 per cent, while claims grew by 2.9 per cent to approximately \$1.5 billion. But the point is that, in all of the key areas in this sector, we are starting to see the return to growth, we are starting to see the expansion of business, we are starting to see the return to confidence by the marketplace.

So we need to continue to build on that, to continue to build confidence in the sector and continue to build the investments that are taking place. As the industry expands and profitability grows, we expect new entrants into the market and we expect to see bank assurance starting to take off here in Trinidad and Tobago. Already we have seen that Scotia Bank has started their Scotia Life operations in Trinidad and Tobago and I expect that other companies, other financial institutions would continue to do that. So the complexity of the market will also

Insurance (No.2) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday November 19, 2013

change. So in addition to growing, we are also becoming more complex and more intertwined as an industry, and therefore the need to ensure that the Central Bank has the authority, has the powers that they require in order to properly regulate this marketplace.

So the passage of this Bill, Mr. President, is intended to ensure that the industry has a sound regulatory and supervisory framework within which to operate. As I said, the consultative effort will continue with the Joint Select Committee. In fact, this is a Bill that has been in progress for something like 12 years, and as I said, the last consultation took place in 2009. So we are really optimistic that and we look forward to the involvement and support of the industry and all stakeholders in ensuring that we could make this a reality to build the future that we want to build for the financial services sector here in Trinidad and Tobago.

We have, in doing this just for the information and again to reinforce to Members of this honourable Senate, that we have sought to incorporate as far as possible, probably best practices on an international basis in this particular Bill. We have looked at legislation from the UK, Australia, Canada, Jamaica and other parts of the region as we sought to identify what is best, what is workable and what would give us the best leverage for continuing to grow this business—going forward.

We have also incorporated particularly as it relates to areas such as the risk capital guidelines, the insurance core principles that were developed by the International Association of Insurance Supervisors. So these principles established on an international level, the minimum standards that are required for effective insurance supervision. So what we have done, Mr. President, is, we have incorporated best practices from the regulatory level as well as best practices at a commercial level as far as the industry is concerned on an international level. We have also sought to align the Bill with the Central Bank Act, the Companies Act, the Securities Act, the Financial Institutions Act, the Proceeds of Crime Act, the Anti-Terrorism Act. So what we sought to do is to ensure that we have a comprehensive, that when we put this legislation in place, it fits neatly into a comprehensive range of legislation that exists currently, that supports each other to ensure that we have a basis on which the proper regulation of this industry could occur.

So we are looking, therefore, Mr. President, to ensure that we have a Bill that is very comprehensive, very solid and will act as a foundation for the development of this industry for years to come. We have also ensured to the

extent that it is practical and feasible and where the information is available, to ensure there is regional harmonization, particularly, and this is specific to—in particular, the management and supervision of overseas subsidiaries, cross-border supervision that we refer to on an ongoing basis, to ensure that we do not have the kind of contagion risks that occurred when the CL Financial Group melted down. In fact, Trinidad and Tobago Government had to provide quite substantial support to the region and to the insurance companies in the region to ensure that there was not a wider financial meltdown even though, today, given some of the weaknesses of the regional economies, you know, I am not quite sure we have fully staved off the risks that are inherent out there and the potential contagion risks that the Trinidad and Tobago financial sector could face, given the weaknesses of these economies in the region.

But nevertheless, it is specifically focusing on the regulatory issues. What we have done is, put in this legislation the ability to allow us to harmonize the regulatory process with our colleagues in the region and to ensure that there is proper cross-border supervision of these financial institutions.

2.45 p.m.

So I think, Mr. President, that we have put a comprehensive framework in place. We are going to have further consultation to ensure that whatever we left out or whatever needs to be modified—and I am sure there are many comments to be received from the industry—that those are properly taken into account and that we address the requirements of the industry in a very comprehensive manner so we have a basis on which we can move forward, going forward into the future as far as building of our financial services sector is concerned.

Because of the complex nature of this Bill, again, we are proposing that the Bill be referred to a joint select committee to address all the concerns that may exist, to receive all the submissions of the different stakeholder groups and to ensure that we do achieve the objectives that we have set out to achieve, as far as this Bill is concerned.

As I said, Mr. President, it is not our intention—we had done this debate before. My purpose here was simply to relay the Bill once again and to ask this honourable Senate to refer the matter to a joint select committee.

Mr. President, I beg to move. [*Desk thumping*]

Question proposed.

Mr. President: Sen. Henry.

Sen. Dr. Lester Henry: Thank you, Mr. President, for allowing me to initiate this debate from the side of the Opposition, and I want to start by asking a very serious question of the Government in terms of this Bill, given what the Minister has said in terms of what we went through earlier in the year—the initial debate—and also what he said about the fact that the Bill has been in progress for over 12 years.

My question initially is: Mr. Minister, are you serious this time? Because you made a strong case for the urgency of the Bill and the kind of impact the Bill is supposed to have on our financial system, all the wonderful things about shoring up our position as a centre for capital in the region, as a financial centre and so on, and I would agree with most of that, but given the history of this piece of work—this Bill in particular—it does not give us much hope that this thing would be dealt with properly and seen to a proper conclusion, and especially in light of some of the measures in terms of these committees that you set up since the last time we were here, and then introducing another round of consultation.

Now, all of that may lead to improving the Bill somewhat, we never know, in the final outcome, but the point is, it sounds like a lot of stalling tactics to me, [*Desk thumping*] in terms of really bringing this Bill to some kind of final conclusion. Let me explain what I mean when I say: “are you serious?” Because this Bill was first laid in the Parliament here in 2011, sometime in the middle of the year—June or so, to be exact—and at the time it was a rushed job that was done because of an IDB conditionality so that the Government could get their hands on the first tranche of a loan. [*Interruption*]

Sen. Howai: No, that is not correct.

Sen. Dr. L. Henry: Oh yes? That is exactly—

Sen. Howai: In 2011?

Sen. Dr. L. Henry: In 2011, you were not here.

Sen. Howai: Okay, I am sorry—

Sen. Dr. L. Henry: You were not here. It was not you.

Sen. Howai: Okay.

Sen. Dr. L. Henry: Yes. It was the former Minister of Finance and the Economy.

Sen. Hinds: He did not get \$10 million—

Sen. Dr. L. Henry: Yes. [*Laughter*]

It was done precisely because of meeting the IDB conditionality in 2011 to get their hands on the loan. Once the Government got the first tranche of that loan, they allowed the Bill to lapse. [*Interruption*]

Sen. Hinds: Ooor!

Sen. Dr. L. Henry: So when I asked: “are you serious this time?” [*Desk thumping*] That is where it is coming from.

Sen. Hinds: They duped the international committee too.

Sen. Dr. L. Henry: Then earlier this year we introduced the Bill. I heard several people talk about, well, the fact we are going to pass this Bill, it is an important Bill, all kinds of issues about our international standing and so on; what this could mean to us, and then, again, the Bill was allowed to lapse in 2013 in the last session. [*Interruption*]

Sen. Hinds: He smarter than that.

Sen. Dr. L. Henry: So once you mamaguyed the IDB in 2011—you got the tranche thing, So I have serious doubts about your intentions that you state about all the good things this Bill will do, and if you are really going to follow through on it because, obviously, [*Desk thumping*] the Bill has major implications for many players in the insurance sector, and I am sure you are fully aware of that.

So the point is that when you bring such lofty ideals and so on, it sounds very good. It might make good reading to people who are not familiar with the fact that, given all these committees and so on that you set up, and the process that you just outlined that happened since we brought this earlier this year, it is not sounding like this Bill is going to be ready for a full debate and to be passed in this Senate any time soon. [*Interruption*]

Hon. Senator: “Why yuh so negative?”

Sen. Dr. L. Henry: Yes, because it is your side.

Hon. Senator: “Why yuh so negative?”

Sen. Dr. L. Henry: All negative. We do not trust you.

Sen. Hinds: That is right. [*Interruption*]

Hon. Senator: Not in your category.

Sen. Dr. L. Henry: So when—[*Interruption*]

Hon. Senator: Not under de PNM, yuh know.

Sen. Dr. L. Henry: So when you come here and talk about all of these things, this is clearly—this could be another attempt to hoodwink the population into thinking that you are taking all this lovely action and then nothing happens. *[Interruption]*

Hon. Senator: Judge us by—

Sen. Howai: This has been the most progress that this Bill has made since—*[Desk thumping]*

Sen. Dr. L. Henry: No, but you introduced it since 2011. *[Interruption]*

Hon. Senator: How long you did it before?

Sen. Dr. L. Henry: And you have all—*[Interruption]*

Sen. Howai: In June. We laid it in June.

Sen. Dr. L. Henry: Yes, in 2011. *[Interruption]*

Hon. Senator: You didn't join the PNM—

Sen. Dr. L. Henry: So what you have is potentially here, Mr. President, another set of lofty promises by the Government about fixing this and fixing that and nothing will come of it for a long time to come. You have made a practice of coming to this Senate and always talking about what you will do, and confidence returning somehow next month, and month after, and then you come a year after and come back and talk the same thing again. As you have heard me say in many of the budget debates, you are always laying a foundation for growth. That foundation has to be very deep.

So, Mr. President, on the first occasion I raised several issues and some of them the Minister outlined in terms of my concerns about the Bill and, particularly the same problem, the one that he mentioned in particular, I want to reemphasize, is the issue of the timing—the timelines; the idea that if somebody applies to form an insurance company or even a foreign company applies, you know, a lot of it is up to the discretion of the Minister, and there is no limit. There is nothing saying, well, the Minister must give a decision within 30 days or 60 days. It could just go on and on. And for international investors, this could be seen as a stalling tactic, as an issue of discouraging foreign firms from coming in, once you leave it up to the discretion of the Minister.

The Minister did not mention one of my concerns about nationality requirements, in terms of the foreign companies coming in. It is something I want to encourage the committee and the Minister, in particular, to take seriously and, of course, we want the Bill to also—and the team that is going to work on the Bill—look at possibilities for, as the Minister mentioned, concentration or what we used to call in the old days, competition policy, in terms of avoiding another CL Financial, or another Clico debacle which, as the Minister outlined, caused us great amounts of money, embarrassment, and we are still dealing with the effects of it.

In fact, I filed a question to the Minister several months ago in the last session—*[Interruption]*

Sen. Hinds: Yes.

Sen. Dr. L. Henry:—asking about what the main issues are in terms of finally resolving the Clico, or CL Financial crisis—*[Interruption]*

Sen. Hinds: “Dodge de bullet fer months.”

Sen. Dr. L. Henry:—and the Minister avoided the question until the session lapsed. *[Interruption]*

Sen. Hinds: Yes, that is true. He avoided it.

Sen. Dr. L. Henry: He made no attempt to even flatter me with a mamaguy. *[Interruption]*

Sen. Hinds: Dodged it!

Sen. Dr. L. Henry: And what we have seen—and I am happy that the Minister opened up the debate to talk about what is happening in the insurance sector and good governance and, you know—*[Interruption]*

Sen. Hinds: Larry the dodger.

Sen. Dr. L. Henry:—all kinds of things because I want to raise a particular issue. I do not intend to be too long, Mr. President, but I want to raise a serious issue that underscores that we cannot take this Government seriously, despite how lofty and nice they sound. *[Desk thumping]*

Sen. Hinds: I will agree with that.

Hon. Senator: “De res ah dem eh pongin no table.”

Sen. Hinds: I will agree with that.

Hon. Senator: “Is you alone.”

Sen. Hinds: I agree.

Sen. Dr. L. Henry: Because if we look at the situation that is going on right now, Mr. President, with the Clico company as it is—the insurance company, not CLF, not the group—for a long time now we have been hearing that the new company, Atrius, is supposed to absorb Clico, the insurance business and Clico becomes something of the past.

The Minister has remained fairly silent on this matter, in terms of what is happening with that insurance company. Now you have a hard-working staff of people who remained with the company—with Clico, the insurance company; not the whole thing—and they have remained on board and helped build back the company, and I think even the Minister, in one of his previous addresses somewhere, talked about the fact that the company was regaining some momentum.

Now, what is happening with that—and the Atrius company that we were told for quite some time now was supposed to be in formation stage. In fact, they appointed a board. The board has been appointed. You could go on the Ministry’s website and see the board. And while the Minister talked about good governance and so on, Mr. President, I am reliably informed, if you go on the Ministry’s website and you see the board, there is a chairman listed there who claims to have the qualification of an actuary—it is listed by his name—and we have been reliably informed that this is not true. The man is not an actuary. *[Interruption]*

Sen. Hinds: Another one?

Sen. Dr. L. Henry: Another one of their—*[Interruption]*

Sen. Hinds: Another one? Another UNC?

Hon. Senator: Say that again?

Sen. Dr. L. Henry: He is not an actuary, but is listed on the Ministry’s website as the chairman of the board. *[Interruption]*

Sen. Hinds: “Oh God, again?” Withdraw this Bill.

Sen. Dr. L. Henry: And you are talking about good governance and international best practices and so on, and this is—*[Interruption]* Yes—no, the damage was coming.

Sen. Hinds: Check it out!

Sen. Dr. L. Henry: And there is another gentleman listed there who never took up the appointment, and I understand it is because he felt slighted that you would bring an unqualified person and put him as the chairman. *[Interruption]*

Sen. Hinds: Ooh, I see!

Sen. Al-Rawi: Probably appointed by Kurt Ajodha. *[Laughter]*

Sen. Dr. L. Henry: Yes. So I am saying that you cannot come here and talk about best practices and good governance, and all the merits of this Bill and this is what you actually do in practice. And Atrius, of course—the board is existing. I wonder if the Minister will volunteer to tell us if they are actually being paid because nothing is happening. *[Interruption]*

Hon. Senator: “Yes, they being paid.”

Sen. Dr. L. Henry: Absolutely nothing is happening. “I doh” know if they even have a board meeting or whatever. But on a serious note, Mr. President, what is happening in—*[Interruption]* Yes, check it, please. *[Interruption]*

Sen. Hinds: The Prime Minister’s personal friend.

Sen. Dr. L. Henry: So what is happening—and I understand it was not even the pick of the Minister to pick that particular chairman. That is why he has to go and check it now. *[Interruption]*

Sen. Hinds: Yes. It was the Prime Minister’s recommendation.

Sen. Dr. L. Henry: So what is happening with the people in Clico who have begun to build back up this company now after all the damage and so on, is the people have been despondent—the employees. It is about 400 people or so are affected by this indecision by the Government in terms of making up their minds, what they want to do in terms of bringing Clico under Atrius, even though there is an existing board for almost two years now, I believe, and the Minister is not giving any assurances—and he is right there—to the people in Clico as to what is their future; what is going to happen.

So many of the good people in the company are either leaving, once they get some other job and they are withdrawing their enthusiasm. Depositors or policyholders are starting to cash in because they do not see any future. There is a bit of uncertainty and the Minister should be fully aware that once you create an uncertain situation in a financial institution, what are the consequences. And this is the reality of what is happening with Clico and this indecision as to whether Atrius will actually become a functioning entity and absorb the Clico thing.

Insurance (No.2) Bill, 2013
[SEN. DR. HENRY]

Tuesday November 19, 2013

3.00 p.m.

I understand that everything is in place for it to happen, but there is no action on the part of the Government. You have to understand—put this in a political context, we have been telling the population that you are fighting four elections in one year. You have no time to govern and this is a prime example of it. [*Desk thumping*] The country was basically on autopilot for most of the year.

Sen. Al-Rawi: That is right.

Sen. Hinds: “Yeah.”

Sen. Dr. L. Henry: In fact, it might be on autopilot since May 2010.

Sen. Robinson-Regis: Exactly!

Sen. Dr. L. Henry: So what has happened? [*Desk thumping*] So this problem—and we are talking about building a solid insurance sector with all of this thing. We know the Bill is complex and it is long overdue. It is a necessary Bill. As someone who is involved in this financial services area—I do a lot of work in it—I understand the significance of the Bill, but what is happening if we cannot even establish a company, something so straightforward, that everything is in place at Atrius and Clico to make this happen?

The Minister talked about bringing new shares on the stock market and selling further assets and so on. My next question to the Minister, Mr. President: what is going to happen to the assets of Clico? What is going to happen? We are hearing talk about the possible sale of methanol and sale of that, even forming a company, bringing them on the stock market, all of these things. What is going to happen to the shares of the Clico company? Not CLF. I am making a clear distinction. Okay?

Hon. Senator: What do you suggest?

Sen. Dr. L. Henry: Mr. President, what do we have going on in this particular case here? Now, we have all heard about methanol and the potential value of the methanol company, and it has been a success story. Now, the Clico company is engaged in arbitration with the Germans. As we all know, the Germans have the first option on any sale of the methanol. That is public information. What is happening with this Government, Mr. President, is that while the company is engaged in arbitration, serious discussion, trying to get the best deal for the company and, by extension, the people to this country, this Government is in secret negotiations with the Germans behind the back of the arbitration team.

Hon. Senator: That is not true.

Insurance (No.2) Bill, 2013

Tuesday November 19, 2013

Sen. Dr. L. Henry: Yes, it is absolutely true.

Sen. Maharaj: Where is your evidence?

Sen. Dr. L. Henry: Yes! So do not be surprised, if in a short time from now, you hear a deal being cut to sell the methanol plants to the Germans [*Desk thumping*] at a very comfortable price, something that the Germans would welcome and enjoy.

Sen. Singh: That is not true. It is not true.

Sen. Dr. L. Henry: You could say it is not true as much as you want. I know it is true. You are engaged in secret backdoor negotiations with the Germans for the sale of methanol—[*Interruption*]

Sen. Hinds: Oh, my God!

Sen. Dr. L. Henry:—in trying to bypass the legitimate arbitration that is going on.

Sen. Singh: That is not true.

Sen. Dr. L. Henry: And that is how you operate. So anytime you come here and you talk about lofty—[*Interruption*]

Sen. Singh: There is no Ken Julien.

Sen. Dr. L. Henry: Yeah. Yeah. Anytime you come here and talk about all your lovely plans and ideas, do not—and I want the public and the press to pay particular attention to this. They are circumventing the arbitrations and secretly negotiating with the Germans.

Hon. Senator: That is foolishness.

Sen. Dr. L. Henry: Yes! According to the Minister, you know, target hardening—Minister of National security—and you do not throw stones at bare fruits or bare tree? Yes, whatever. That is what you are going. You cannot be trusted, and do not come here and talk about lofty, ideals about good governance and international best practices when that is your record.

So I end, Mr. President, by asking the question as I started: are you serious this time in really passing this Bill? [*Desk thumping*]

Hon. Senator: Well done, Lester.

Mr. President: Sen. Ramkhelawan.

Sen. Subhas Ramkhelawan: Thank you, Mr. President, for giving me the opportunity to contribute to this Bill. It has come back again in another shape and form, and it has come back, when I look at my electronic copy, to the tune of more than 350 pages. And so, in that context, I would move quickly to support any motion which takes this Bill to a joint select committee for a proper and thorough deliberation on the various clauses of the Bill, and how we, as a nation, should go forward.

Let me say, Mr. President, it is good to be back in the Senate after such a prolonged period of time. I almost forgot what it was like to be here to work in the best interest of our citizens to get good legislation passed. But we are here, and we are here to talk about this particular Insurance Bill. There are some thoughts that I would like to share with the national community and, of course, with the Senate, as a whole, with regard to this Bill.

First, this is not the first version of the Bill and I applaud the Minister for his various efforts in trying to get this Bill passed, but there are some other concerns that have come up with regard to the Bill, some of which I would have already mentioned and the hon. Minister would have mentioned. First was the question of risk and return and the growing level of risk capital that is now required to run an insurance company. That actually is, in part, a good thing because what we have had are a number of insurance companies operating with the bare minimum paid-up capital, and that has implications for their ability to make payment when called upon to do so by the insured.

Indeed, I am advised that there are probably 50 to 60,000 drivers driving around this country, who would never be repaid an insurance claim in the event that they have to make such a claim. And the only reason for that, is that the insurance companies that they are insured with, do not have the capacity to make such payment. That indeed is a tragedy and, therefore, the question of capital is important. But I want to speak for a very brief period about the whole question of where does this Insurance Bill fit in the overarching architecture of the financial system.

You would recall, Mr. President, that a Green Paper, somewhere around 2002, was meant to address the development and the unrolling of the various pieces of legislation and enforcement of such legislation in the financial sector. They included banking, they included securities, insurance, pension, credit unions in the main, and it has been some 10 years now that we, as a nation, have been striving to unroll and fill out this particular agenda of the overarching financial system architecture.

In 2008, we had the Financial Institutions Act replacing the 1993 legislation, the Financial Institutions Act of 1993. We have had some amendments since then, and those amendments have related to the Securities Act, in particular, 2012, which was passed. Insurance has been long in abeyance in terms of legislation because it has been some 30 years since we would have had an overhaul of legislation for insurance. The Act currently in force is the Insurance Act, 1980/1981, I believe. So, it is necessary for us to consider the extensive changes that have taken place in international practices and procedures and legislation, and make the changes that are necessary for us, in Trinidad and Tobago, to actually move into this modern phase of insurance practice.

I mentioned the securities legislation and I am deeply concerned that the Securities Act, 2012, which was hurriedly passed—and when I say hurriedly passed, not that it was not considered in great detail over a long period of time, but the Senate was told that the legislation needed to be passed, this Securities Act, 2012, in order that we not be, as a nation, again, blacklisted in terms of international securities framework.

The undertaking that was given then, in order to pass this piece of legislation which had certain very invidious sections to practitioners, was that the legislation would be brought back to the Senate and passed by June 2013, just to correct some of the issues that remained in the Securities Act 2012. Now that has not been done, and it is a source of deep concern that it will continue to put practitioners in grave danger because particular pieces of this legislation which needed to be corrected, there was an undertaking that they would be reviewed by June 2013.

It is now November and the Government has run particularly silent on when this piece of legislation is going to come back to the Senate and to Parliament, as a whole, for the amendments that were sought. I think that the Minister in his winding up, I would request and appeal to him, that he gives some undertaking that this matter will and ought to be corrected, because if the Government continues in this vein, who will want to take the word of the Government?

It was an undertaking and that undertaking has not been fulfilled, and I want to appeal to the Government to correct that omission because it is indeed a serious omission in terms of the securities legislation. Why would anyone want to work with the Government when undertakings that are given are not met? Why would anyone want to rush to pass a piece of legislation that required a special majority, and on the basis of the undertaking go forward if the undertakings are not being met? This is a concern that I have and I am aware that it is shared by many of my colleagues on the Independent Bench. So let us correct it.

Insurance (No.2) Bill, 2013
[SEN. RAMKHELAWAN]

Tuesday November 19, 2013

But back to the Insurance Bill and the overarching architecture. We still have to deal with the matter of pensions; we still have to deal with the matter of pension legislation even after this insurance; and we still have to deal with the matter of credit unions because we had one major failed credit union and we are still, as a nation, seeking to absorb the various costs that would have had to been borne by the taxpayer, not only for insurance, but in terms of credit unions.

So, as we look towards this joint select committee and the various adjustments that would have to be made, some of the concerns that are now cropping up, indeed, and must be looked at over and beyond what we may have discussed and would have debated in a previous debate on the insurance legislation are the impact of potential changes in accounting rules and accounting standards on insurance companies. I hope that the hon. Minister will take into consideration how these new accounting standards and rules will affect insurance companies going forward, and ensure that when we look towards the legislation we make the necessary adjustments to make whole, if you will, insurance companies going forward.

In a sense, when new capital rules come to these insurance companies and accounting rules come, they will become less and less attractive to investors. The hon. Minister spoke about the stock exchange. I was going to say Minister Henry, but that might be—I have to stand corrected. [*Laughter and crosstalk*] Yes, because I am actually hoping that he remains a Senator with us as we go along over the next couple weeks. What I was saying is that Sen. Henry raised the point of Atrius.

If the Minister is keen on building the capital market and growing the number of issues on the stock exchange, Atrius would be one of them that would make very good sense because it would be a clean book of insurance and it will require capital because of what the assets of that company are as I understand it will be. It will require much less capital than some of the other companies operating at this point in time.

3.15 p.m.

So the question of insurance companies building the exchange, there are some pros and cons. One, let us be very careful about the capital that is required to support insurance companies, because if we get to a stage where the capital count is so high, the stock exchange, the equities market will suffer.

As it stands now in the legislation, and from what I understand will come in the regulations, it will take far more capital for insurance companies to buy equities or shares on the stock market than it would take for them to buy Government bonds or, indeed, corporate bonds, and this is a matter that has to be carefully balanced.

Carefully balanced in the sense that we as a developing nation with insurance as part of the financial system must be able to ensure that institutional investors such as insurance companies do have the ability to invest in and support growing and capable companies on the stock market.

If you go ahead with the capital count, what you will find is that insurance companies will move away from buying shares on the stock exchange and your ambitions, if you will, to grow that stock exchange—and we share that ambition, Minister, I must say. I share with you the aspiration that we will grow the stock exchange; I share with you the aspiration that over time, over the next five years, that we can double the number of issues on the stock exchange, double the valuation, and make people wealthier by investing on the stock exchange, but all the parts have to come together in terms of convergence. Insurance will have to come together and insurance is an important purchaser of equities on the stock market, and you have to be very careful in balancing those various aspects.

So I would like for us to consider very carefully, when that joint select committee meets, the issue of where we are on the development scale and what we would need to do in terms of capital relative to assets that insurance companies can buy and how we balance that to ensure that there is investment in equities, there is investment in bonds and the capital requirements are of a nature that will make it equitable and something that we can pursue.

I spoke about accounting rules already and I do not think that I want to say more about it except that when we examine this Bill, we also will have as a joint select committee to call in some of the practitioners on the accounting side and the associations, whether it be ICATT and otherwise, to share with us what are the issues going forward in terms of the accounting rules, how they are going to affect insurance companies that are publicly listed, how they are going to affect valuations of these companies as we go forward, and how would they impact earnings of insurance companies as we go forward.

So I think that I have covered some of the issues. I want to speak to one thing that was raised by Sen. Henry and that is—*[Interruption]*

Sen. Hinds: “The sale ah de plant”—methanol plant—*[Interruption]*

Sen. S. Ramkhelawan: When this matter of the break-up—*[Interruption]*

Sen. Hinds:—by Vasant Bharath?

Sen. S. Ramkhelawan:—of CL Financial took place, one of the prime jewels of that company was a company called MHTL, or Methanol Holdings. Methanol Holdings is very, very important *[Crosstalk]* to the future of this country.

Insurance (No.2) Bill, 2013
[SEN. RAMKHELAWAN]

Tuesday November 19, 2013

[*Crosstalk*] Methanol Holdings produces the—I believe, I think it is about 6 million tonnes. Methanol Holdings produces about two-thirds of that or about 4 million tonnes and I stand to be corrected on the actual numbers; but they produce the largest component of methanol in this country, and remember that we produce about 12 per cent of the methanol in the world. Any intention on the part of the Government to sell that holding to anybody else must be eschewed.

Sen. Hinds: Ask Minister Bharath.

Sen. S. Ramkhelawan: I think it is worth repeating because I do not think—rumours in Trinidad and Tobago do fly all over but you know, when there is smoke—[*Interruption*] wherever there is smoke, look out for fire.

Sen. Hinds: With this Government?

Sen. S. Ramkhelawan: I am sure Minister Bharath would know a little bit about that—[*Continuous crosstalk*] where there is smoke, look out for fire! The point is, if we were to sell Methanol Holdings, if we were to make that most injudicious decision to sell Methanol Holdings, [*Crosstalk*] give up any thought—[*Interruption*]

Sen. Singh: Tabloid in the [*Inaudible*]!

Sen. S. Ramkhelawan:—about building a downstream industry for this country. What was built up over 30 years will be lost in one moment of injudicious decision-making.

Sen. Hinds: Like Loran-Manatee!

Sen. S. Ramkhelawan: So, you know, whether it is, as my good friend on the other side say, tabloid or not, I just want to caution the Government—[*Interruption*]

Sen. Singh: Caution on the basis of speculation!

Sen. S. Ramkhelawan:—not to even think—[*Interruption*]

Sen. Singh: Caution on the basis of facts!

Sen. S. Ramkhelawan: I want to caution the Government on the basis that wherever there is smoke, look out for fire!

Hon. Senators: “Yeeeah!” [*Desk thumping*]

Sen. S. Ramkhelawan: I will want to caution the Government to tread very carefully on the future of our children and grandchildren [*Desk thumping*] because if you make that injudicious step, you cannot recoup the work that has been done by previous generations over the past 30 years in building this jurisdiction or this economy on the basis of methanol and the second tier [*Continuous crosstalk*] production from natural gas.

Sen. Hinds: They have already added \$40 million worth of debt. [*Continuous crosstalk*]

Sen. S. Ramkhelawan: It is a point, Mr. President, that needs to be belaboured and ought to be belaboured because I think citizens of this country— [*Continuous interruption*]

Mr. President: Senators, Senators, can we listen in silence?

Sen. S. Ramkhelawan: Citizens of this country are looking on and they are wondering— [*Crosstalk*] in the first place, Government does not have control. Government does not have direct control of any of the CL Financial assets. It has lent money to them, it does not have controlling interest in terms of shares and so on.

So if, as I said, I belabour the point, I do not do so in the interest of the Government or anybody else in this Senate, but I do so in the interest of our citizens and our citizens' children and our citizens' grandchildren that make no mistake about it, and I understand that the matter is in arbitration. I understand that the matter is in arbitration, yes, but it will come out of arbitration but just do not make the mistake to capitulate at this point in time.

Sen. Hinds: Like Loran-Manatee!

Sen. S. Ramkhelawan: So, Mr. President, I look forward to the joint select committee, to the review in detail of this insurance Bill, and hope that at the end of it, we will be able to put as part of the financial architecture, insurance legislation that sets the stage for us to go forward, that sets the stage for a contribution by the insurance sector in building out the regional capital market, and that sets the stage for us to go over and beyond in creating greater employment and greater sustainable employment for the citizens of our country. I thank you, Mr. President. [*Desk thumping*]

Mr. President: Sen. Al-Rawi.

Sen. Faris Al-Rawi: Thank you, Mr. President.

Sen. Maharaj: [*Inaudible*] Faris Al-Rawi!

Sen. F. Al-Rawi: I rise on this Sixth—

Sen. Maharaj: On the final occasion.

Sen. F. Al-Rawi:—Sitting of the Fourth Session of the Senate to make a contribution to the second Bill laid in the Parliament of Trinidad and Tobago.

Insurance (No.2) Bill, 2013

Tuesday November 19, 2013

Sen. Maharaj: It has been nice! [*Laughter*] Adios!

Sen. F. Al-Rawi: Mr. President, even though our bench is somewhat light without Sen. Deyalsingh, now Member of Parliament for St. Joseph, [*Desk thumping*] I just wish to say, Mr. President, if I am permitted that short opportunity—[*Interruption*]

Sen. Maharaj: “Yuh congratulate the man already!”

Sen. F. Al-Rawi:—that we, on the PNM Senate Bench, miss him dearly and wish him very, very best [*Desk thumping*] in representing the interest of St. Joseph constituency. We were heartened that he offered himself up and was successful at the polls. He put up and he shut everyone else up. [*Desk thumping*] A line familiar to my good friend, Sen. Devant Maharaj.

Sen. Hinds: “Yeah.”

Sen. Maharaj: Of course!

Sen. Hinds: “Dey choose Ian Alleyne over he.”

Sen. F. Al-Rawi: The Bill before is in fact only the second Bill in the Senate. We have done very, very, very little work in this Senate.

Sen. Hinds: Poorly!

Sen. F. Al-Rawi: We have been here literally including our first formal session, we have been here—how many times is that? Six times.

Sen. Hinds: “Um-hmm!” They do not want—[*Inaudible*]

Sen. F. Al-Rawi: We have had our formal session for opening, a couple of budget sittings, we really have done very little work, Mr. President, and I join Sen. Ramkhelawan in expressing my gratitude to be back in the Senate to do the people’s work. Because it is often a difficult task to do that particularly when one is not given the privilege of at least an agenda to understand where we go to from one moment to the next.

Sen. Hinds: There is none!

Sen. F. Al-Rawi: Mr. President, I plan to be very, very short in contributing this afternoon.

Sen. Maharaj: Is that possible? [*Laughter*]

Sen. F. Al-Rawi: There being money across the table as to how brief I can actually be—[*Interruption and laughter*]

Sen. George: “Ah bet—ah betting, ah betting!” [*Laughter*] [*Inaudible*] [*Laughter*]

Sen. F. Al-Rawi:—so I will take all bets, Mr. President, wagers accepted. [*Laughter*] The Bill requires a three-fifths majority. It is a special majority Bill and it is a special majority Bill because it affects property rights and constitutional rights. So therefore the work which this Senate will be doing in conjunction with those Members appointed by the Lower House session in joint select committee will be to ensure that we have a proportional piece of legislation that can withstand the scrutiny of our courts.

The work of this insurance reform actually started prior to 2001, and has been on the table for very good reason in some part but not very good reason in other part. Suffice it to say, it is incumbent upon us as a nation to ensure if we wish to hold the mantle of a leader in financial services that we harmonize our laws with our Caricom brothers and sisters, and that we can meet international levels but with caution. There are only a very few areas on the Bill that I want to ask the hon. Minister of Finance and the Economy to pay attention to really so that when this Bill moves to joint select committee that we can perhaps meet the resources which I humbly request that we consider be added on to that.

Mr. President, the issue of the treatment between local and foreign insurers is something which requires some degree of concern. We are, in fact, requiring statutory funds in the case of foreign entities and we are requiring capital ratios in respect of local entities. So therefore, we have a dissimilar treatment of entities when in fact we can have a significant amount of work placed via foreign entities. One needs only to appreciate the concept well established in insurance law of fronting of policies and of interests where risk is in fact placed to the tune of a dollar with a local entity and where reinsurers or others or local entities assisted by foreign entities pick up the slack.

Because we are using international standards, in particular, we are using the IFRS standards, we can, Mr. President, with the shrinking of the market by increasing the capital limits that we require under this legislation, we can find ourselves run by a monopolistic large entity grouping. And that does not actually give the kind of comfort that one might think, and that is because a simple shift in the way accounts are managed from an international level can result in people being in business today or out of business tomorrow. AIG is just one of those examples, where the mark-to-market adjustment in the treatment of assets on financial, on balance sheets caused a fundamental shifting of how solvent companies were from one point to another. So I invite the hon. Minister in

Insurance (No.2) Bill, 2013
[SEN. AL-RAWI]

Tuesday November 19, 2013

agreeing to consider the disparity between local and foreign entities to consider incorporating the use of local experts from an accounting perspective, and in particular from a litigation perspective and from a legal perspective as it relates to litigation and corporate law.

3.30 p.m.

That point, Mr. President, flows very significantly into the provisions that we propose to introduce, quite laudably, in this Bill which relate to judicial management and winding up, and may I ask the hon. Minister to please recognize that our winding up rules, under the companies legislation are antique, at best. And for those of us that have practised in court, in relation to winding up of companies, Mr. President, it is an anachronism beyond measure to try to marry very ancient winding up rules with the Civil Proceedings Rules, with the Companies Act and with the financial legislation that governs our entities, Mr. President. And I think it important, in considering the Joint Select Committee's work, to look at a harmonization of local legislation that we urge ourselves to move quickly to reviewing the winding up rules as they relate.

This Bill proposes a supremacy of law for this particular legislation, but a reflection of the winding up provisions as set out in the Bill will tell us that there is a lot of harmonization to be had with the Companies Act and with the winding up rules. And the courts have done their very best in recent measures to try and solve those gaps, but it is by far a preferable method for the legislators to get the provisions correct and not have to put the courts in an unfortunate position of having to interpret, by way of construction of mutually exclusive bits of legislation, what Parliament really intended.

So Mr. President, my humble recommendation to the hon. Minister is that we try to get the winding up rules included, in terms of the revision, at the same time that we are looking at the insurance legislation.

Mr. President, the other concern that I have is in the capacity of the regulator. We are going to be using the Inspector of Financial Institutions who is, of course, at the Central Bank. And when we marry the fact that the Financial Intelligence Unit uses the regulator—the Central Bank—that the Central Bank uses it for the inspection and management of all financial institutions, the capacity requirements of the Central Bank and the Inspector of Financial Institutions is a very critical, core component to having a smooth operationalization of this legislation.

So it would be incumbent for us, at joint select committee, to really investigate the capacity which we propose to put under test through the regulator, and it would be important for us to allow the Ministry of Finance and the Economy to ameliorate that position as best as we can because if we have the best legislation in the world,

Mr. President, it is very difficult to implement if we do not have the capacity to implement. My own view is that the local, legal fraternity needs to be included in this inspection. And whilst we will be proposing—I understand from the hon. Minister—the adoption of the work of the last Committee appointed, where that Committee allowed for the employment of a commonwealth expert, it is critical for us to remember that the local experts are perhaps even more important. And they are more important particularly because the commonwealth jurisdictions that we are borrowing this legislation from, have something that we do not and that is winding up protection. That is administrative orders as they are called in England.

We do not, in this jurisdiction, have Chapter 11 protection as the Americans do or administrative law protection as the English do, and so we would be missing a very key piece of the puzzle in understanding the “operationality” and the range of measures which the liquidator, qua receiver, qua regulator, is going to have on any suspension of an insurance entity whilst it is in difficulty. So it is very, very important, particularly because we have the benefit of a significant amount of litigation just had in the local industry, post the global meltdown which, of course, had a contagion in Trinidad and Tobago with the CL Financial crisis.

Mr. President, may I also invite the leader of Government business, perhaps through the Minister of Finance and the Economy, to tell us the status of the amendments to the Exchequer and Audit Act. Last session, Mr. President, we had the exchequer and audit amendments tabled in this Senate. Indeed, I pointed out to the hon. Members opposite that we were engaged in an exercise of folly because it was a money bill. It affected issues to deal with matters which should have come into the Lower House, and therefore the Bill, having been introduced into the Senate, was destined to fail; so said, so done, the Bill was allowed to lapse.

But the Exchequer and Audit Act is the backbone piece of legislation from which all of our financial services stand—are built upon. It is therefore critical for us in looking at the harmonization of this insurance law, particularly in a Caricom setting, to look to the improvements of the Exchequer and Audit Act as quickly as we can. And I, again, wish to recommend that the Jamaican model of the audit and exchequer act provides a very excellent example of what we should be achieving across our ministerial portfolios. The appointment of audit departments, the correlation between auditors and entities so that the government’s services can help themselves to move more quickly to a whole of government’s reporting system.

Insurance (No.2) Bill, 2013
[SEN. AL-RAWI]

Tuesday November 19, 2013

Mr. President, the core points that I wish to address would really come up, insofar as the Bill itself is a very large Bill and a very detailed Bill, I wish to commend the Government, as late as it may be, in finally getting this legislation moving forward, in picking up the work done by administrations prior, in particular Ministers of Finance standing in PNM shoes and the Ministry of Finance and the Economy as a whole and, in particular, the technocrats at the Ministry of Finance and the Economy, have done a massive amount of work.

As we are well aware, a platform and pole for growth under a PNM policy was and still is the creation of international financial centres, [*Desk thumping*] and so it gives the PNM great pride to see this legislation come forward, better late than never, better that we get it right than not get it right at all because Trinidad and Tobago as a leader, supposedly, in the Caricom, as it relates to financial activities as we hope to be, really has to get this right. After all, Barbados and Jamaica are significantly ahead of us, Mr. President, and it is about time that we got there.

I do hope that the exercise of consultation, in particular as it relates to the cost factor that insurance companies will have to pass on in terms of how they price their products, not only from an actuarial point of view but from a price costing view as taxation will affect, can be had, so that when this system is transitioned, albeit through the five-year period that we are looking for, for existing companies, to pass through to achieve the capital requirements, whether they do general and long-term policy insurance or individually, it will be critical for us to get pricing mechanisms right, particularly when one appreciates that the industry is going to shrink considerably in terms of the number of players on the footing.

That also, hon. Minister, requires us to consider the propriety of the banking sector having as much of a play in insurance as it will; because the banking sector also engaging in insurance sectors, albeit that the Bill, as presented provides for a disaggregation of the financial entities from a risk perspective, it is the consumer perspective that concerns me, and therefore, what the cost of insurance is going to be across the board.

Mr. President, I do hope that we can get on with the business of this Joint Select Committee as quickly as possible. I look forward to participating, if it is I am indeed a member, to again continue as I was on the last occasion—[*Interruption*]

Sen. Maharaj: “If yuh here.”

Sen. F. Al-Rawi:—and I do hope that the hon. Minister of Finance and the Economy will ensure that this Parliament keeps to the undertakings that it professes because we have had several undertakings and we have had several failures on the

part of return to Parliament for undertakings given, and I wish to put on the record that this PNM Bench in the Senate and this PNM Bench in the House hold the record as an Opposition for the most number of assistance, for the greatest assistance given to any government.

We have consistently, in the best interest of the citizens of this country, supported the Government on legislation even when the entire Independent Bench votes against it. [*Desk thumping*] And that has been our commitment to ensuring that Trinidad and Tobago is not blacklisted, that the business of this country continues, even though noble minds sit behind us in the Senate as they do on the Independent Bench, this Opposition, and in particular this Senate Opposition has the record for assisting the Government whenever it is in desperate state, to pass law which is in the best interest of Trinidad and Tobago, on a balancing act, to avoid difficulties that we would face as a nation.

So Mr. President, again, as the Opposition stated to the Government in relation to crime, there are certain issues which we must consider to be apolitical and which we must assist in the best interest of the country. It matters little to us that the Government will not take that opportunity to engage in bipartisan or multipartite talks with us, but the fact is that the invitation of the PNM Bench, the PNM Opposition is still there to work in the interest of the citizens of Trinidad and Tobago, and I think that our actions speak, by far, louder than any words can.

Mr. President, I did promise to be short. I thank you for the opportunity to contribute. [*Desk thumping*]

Mr. President: Sen. Prescott.

Sen. Elton Prescott SC: Thank you very much. [*Desk thumping*] Thank you very much, Mr. President. Thank you very much my colleagues in the Senate.

Mr. President, I am by no means an expert in this area, but I do have some observations I wish to make in, once again, welcoming the idea of this Bill being passed to a joint select committee, because it gives them an opportunity to look at the provisions that are proposed with a view to refining them, taking account of all that has been suggested here.

So that I have some observations to make, in the hope that when the Joint Select Committee sits, it will, at the very least, return to *Hansard* and take account of these, if only to dispose of them, but hopefully to include them in their deliberations with some positive step taken.

Insurance (No.2) Bill, 2013
[SEN. PRESCOTT SC]

Tuesday November 19, 2013

The first of these is the provision in the Act—in the Bill, pardon me, dealing with capital adequacy at clauses 107 to 108. I would not take a great deal of time to read all of it, but perhaps the Member of Government who leads in the Joint Select Committee will note it. In clauses 107 and 108, provision is made for capital adequacy and liquidity, and you would see in it that an insurer is required to comply with directions of the inspector, from time to time, regarding the adequacy of his capital reserves, if that is the correct word.

My concern is that there ought to be some concern, some attention paid to the fact that the mental element required for guilt, for the commission of an offence under this clause is omitted. The framers of the Bill seem to have concluded that the very failure, any act of failure on the part of the insurer to maintain his capital adequacy requirements, regardless of the cause, or regardless of the state of mind of the insurer, should result in summary conviction and the possibility for a director to be imprisoned for as many as five years and to find himself being required to pay a fine of \$5 million. So that the very first of my suggestions is, that we look again at clause 107(5) and see whether there is not room for consideration being given to ensuring that an insurer who may have fallen below the standard for capital adequacy requirements, has an opportunity to be heard as to why he should not be imprisoned or made to pay the \$5 million fine.

3.45 p.m.

The second of my observations has to deal with the fit and proper requirements of the Bill. These are set out in clauses 69 onwards and whereas it is imperative that we must impose criteria for qualification to sit in the director's seat in insurance companies, I note that clause 69(5) and clause 70(5) place in the hand of the Central Bank the power to determine when a shareholder is no longer a fit and proper person. If you just permit me to find clause 69(6) please, it says:

“Where—

- (a) a controlling shareholder is no longer a fit and proper person;
- (c) a person who, without being granted a permit under this section, obtains shares such as to make him a controlling shareholder, that person shall be notified in writing by the Central Bank of this fact and he shall be required to take such steps to reduce his shareholding in such manner and in such time as may be specified by the Central Bank.”

This is an admirable provision because one expects that the Central Bank will monitor the behaviours of persons who wish to become engaged in the industry.

Now, clause 69(6)(c) speaks of a person who, through no act of his own, becomes the owner of shares and, therefore, a controlling shareholder. It might happen through some testamentary device or other and the Central Bank can move with alacrity to haul such a person over the coals and demand that he reduces his shareholding in company X or Y as the case may be. None of this is adverse to the industry but one wonders if the Central Bank has demonstrated in the past that it has the capacity to monitor these goings-on in the society and whether it will have the capacity in the future, with this new added burden, to take steps to ensure that those who hold shares in insurance companies are maintaining their fit and proper status, if only in respect of the obtention of shares without any deliberate act on their part. So that I urge that the joint select committee should, once again, look at this provision and see if indeed by merely giving the rights to the Central Bank to take such action, they would not have done a disservice to the Central Bank in its present capacity.

May I turn to point three then, please? It is related to the point I just made a moment ago about the capacity of the Central Bank. The Central Bank also is given unfettered discretion, it appears, in clause 69(6) and (7) to do the following: to give a notice under subsection (6), to a shareholder to dispose of his shares and under subsection 6(c), such a person shall not be entitled to receive dividends or to exercise any voting rights.

Clause 69(8) says:

“Where a controlling shareholder is notified that he is no longer fit and proper he may, within the period of ten days commencing the day after which the notice is received, make written representations to the Central Bank which shall take such representations into account in determining whether to withdraw or vary the notice.”

My concern is that the extent to which a discretion has been given to the Central Bank to act in these circumstances, if properly managed, no one can complain but discretion that is unfettered, discretion which is provided for in legislation which is unfettered should be anathema to our society and one should really be more cautious about the lack of restrictions on the exercise of that discretion.

The Central Bank should be given greater strictures, more precise conditions, which it must observe, before it were to exercise its discretion to call on anyone to reduce his shareholding in a manner which only the Central Bank can specify.

The thing is that there are people who would wish to invest in insurance. They might do so, sometimes, out of a magnanimous concern for the particular insurer, oftentimes because it is an investment but the fact is that with strictures such as

Insurance (No.2) Bill, 2013
[SEN. PRESCOTT SC]

Tuesday November 19, 2013

these, the kind of unfettered discretion that we are talking about one may be wary to become engaged in propping up an insurer with those conditions likely to fall adverse to you at a moment's notice because the Central Bank is empowered to do so.

One may be wary also that one is buying into a lawsuit because in clause 69(10), it says:

“...the Central Bank may apply to the High Court for an order for the disposal of”—someone—”shares on such terms and conditions as the High Court deems appropriate.”

And it would be rare that a potential investor would ignore the fact that he may find himself in court over what would ordinarily be a proper commercial transaction.

May I finally invite your attention, Mr. President, to clauses 110(1) and (3). In clause 110 we would find there a side note which says “Assets”. A distinction is being made between what is imposed on a foreign insurer and what is imposed on a local insurer, both of whom are required to invest their assets in Trinidad and Tobago. But may I just point out that the language used in clause 110(1) that is to say the local insurer, local is my word:

“... shall invest in assets in Trinidad and Tobago an amount equal to at least seventy-five per cent of its policy benefit liabilities, other insurance and contract liabilities and the surplus which is derived from participating policies.”

He is in a different capacity from the foreign insurer, provision for whom is made at clause 61(3) and the provision does appear to impose less of a burden on the foreign insurer. I note that there is a distinction between foreign insurer and foreign insurance company.

My urgings really are that we should endeavour in the joint select committee to, at the very least, explain why these differences exist and if there is not a satisfactory explanation, or if it can be that the differences can be reduced, that the joint select committee should so recommend to this Parliament so that we would appear to have achieved some kind of equality in the relationship between the foreign insurer and the local insurer.

There may be opportunity also for the joint select committee to make clearer the differences in definition between policy benefit liabilities, which affect the local insurer and, that is in clause 22, and Trinidad and Tobago dollar liability in

clause 61, something which I had not been able to grasp but I am sure the Minister, when he replies, would set me right on the true way to read those two provisions.

Finally, Mr. President, it is not clear to me, from reading the Bill, whether foreign insurance companies are subject to being regulated while they operate in Trinidad, particularly because there is a statutory fund applicable to them but some greater burdens are placed on the local insurer. The Senate could benefit from some better definition, clearer definition. If there is going to be no difference it ought to be pointed out to us and if there is going to be a difference some explanation needs to be made in due course about the differences in the burdens placed on those two businesses.

Those are all the observations I wish to make at this time, Mr. President, because I anticipate that we will have another opportunity when there is a report made to the Parliament on the deliberations of the joint select committee and hopefully that would clear for us those things that concern me. Thank you very much.

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. President. Like my preceding colleagues, I too shall be relatively brief because I think brevity is required, given the size of this particular Bill and the fact that it is going to a joint select committee for further deliberations. At the very beginning of the explanatory note it says that:

“The purpose of the Insurance Bill, 2013 is to provide a new regulatory framework for the insurance industry”

And it continues. So it means that essentially we are looking at the areas in which the industry would have to be regulated. I think it is important for us, at the outset, to ask ourselves why, in fact, there is a need for a particular industry to operate within certain rules and the strictures of regulations. We do know that the industry called the insurance industry is in fact a very peculiar one. There are a number of areas where, in fact we would want to protect the public interest, via effective regulation.

At the risk of sounding a bit professorial, I think I would just like to identify three areas which, I think, warrant the regulation of this particular industry. Information is something that the managers of the industry may possess but the policy buyers may in fact not have in their possession and this would give rise to the phenomenon where in fact policies are not honoured and claims are not, of course, honoured by the industry as a whole. The industry itself may have some risks so that the failure of one company may give rise to a lack of confidence, which jeopardizes the viability of other companies.

Insurance (No.2) Bill, 2013
[SEN. DR. MAHABIR]

Tuesday November 19, 2013

Finally, we know that there is systemic risk which we are all very concerned about, the failure of some very large companies as we have had within the recent past in Trinidad and in the United States can generate a tremendous amount of risk for the rest of the economy. So there is a clear and cogent need for the State to regulate, to set rules and guidelines within which this particular section of the financial sector can in fact operate. But we all know that the insurance industry is complex. It is true, many industries are complex. But this particular industry is particularly so.

We have the complexity arising from the various types of risks, really, which the industry trades and deals in. We have general insurance with its own types of risks, the homeowner's peril, auto insurance, the insurance of a number of named perils. General insurance in particular is different from the life insurance component which deals with policies of a longer duration and also has a pension's component associated with it, and then we have reinsurance and that interesting activity. So that we do have a wide, wide, industry and within the industry there are subsectors which may be different, in terms of how they operate from other subsectors of that particular industry and the complexity of the industry means that we need to really examine how we are going about regulating.

The Bill, as we know, is very large and it is very huge and we know it is a component of the financial services sector. There are similarities between the commercial bank and the insurance business, in that, the commercial banks deal in deposits; the insurance industry deals in premiums. One, they are both taking moneys from the public in exchange for something else: the commercial bank promises the deposits are going to be repaid and it conducts its business according to these lines; the insurance industry promises that upon the receipt of a premium, it will pay its claim when it is due. Both industries deal with finance in this way and, therefore, we know that they would have to be controlled in a particular manner.

4.00 p.m.

The Bill places the onus of control, Mr. President, on the Central Bank as the regulatory agency, and colleagues who spoke before did allude to the fact that we need to be looking at this particular aspect of the Bill a little carefully, in that we know that a Central Bank is particularly adept at regulating the commercial banks. The Central Bank has over years developed tools; it has developed mechanisms; it has developed technics for controlling the money supply; for ensuring that banks operate under lines which are not injurious to the depositors and to the public interest. We have a number of mechanisms at our disposal with which we are very familiar when we are dealing say, with Central Bank regulation of banks.

We also have the Basel Accords of long historical experience and record, and we do know that the regulation of the commercial bank is something that the Central Bank is very, very competent to do. When it comes to the regulation of insurance firms because of the complexities which we have all accepted, we have to ask ourselves whether, in fact, the Central Bank is equally adept at regulating the insurance business as it has done with the commercial banks over a number of years.

We know that our commercial banks are very well regulated. It is unlikely given the banking inspection rules; given the implementation of the Basel Accords; given the various tools; the reserve requirement ratios and so on, that the Central Bank uses, that our commercial banks are going to find themselves in serious peril.

We know that there are early warning signals that the Central Bank has in its possession, which will ensure that the commercial banks are brought in line if they are engaging in rather risky endeavours. But what we are less familiar with, Mr. President, is the regulation of insurance companies by a central bank. It is, I think, timely that this Bill is coming before us to go to a joint select committee. Because it would then mean that—I think the Government ought to review the Central Bank Act, as well, at the same time, to determine whether it needs to introduce further legislation so that we can follow, for example, what the Bank of England has done six months ago in introducing an agency known as the Prudential Regulatory Agency within the Bank of England, specifically charged with the regulation of insurance companies, because it was recognized by the administrators of the Bank of England, that the bank itself, knowledgeable with respect to commercial banks, is not as well versed in the area of insurance regulation. This means—and my colleagues Sen. Henry and Sen. Al-Rawi prior were, in fact, quite correct, we need to look at the capacity building constraints which exist in our regulatory agencies.

In the regulation of the insurance sector, we know that while the commercial bank deals with really short-term investments and must repay its deposits over a relatively short period of time, insurance because it deals with a much, much longer time horizon, may be inclined to engage in investments which are more risky than a commercial bank will have in its portfolio.

It is this high level of risk and higher level of return which may benefit the shareholders of these companies, but not necessarily the policyholders which gives rise to a need to build the capacity in our regulatory agency. During the time that we have while we review this Bill in committee stage, I think it is important for the Ministry of Finance and the Economy and the Central Bank to really examine its capability with respect to technical expertise within its possession.

Insurance (No.2) Bill, 2013
[SEN. DR. MAHABIR]

Tuesday November 19, 2013

It would require, Mr. President, a team of individuals particularly versed in the insurance business; a team of actuaries; a team of individual financial experts; individuals who are well versed in the area of risk in insurance and in the type of investments which they should engage in. That, I think, would result in an effective unit of regulation. Because the concern at the outset, Mr. President, is that while, in fact, we are trying to produce the best law possible, and I hope that given the law which exists in other jurisdictions, while we are trying to produce the best law possible, if this law is not effectively policed, if, in fact, our capacity to monitor and to administer the law, and to ensure that those in the industry are very, very, very well regulated under a tight leash, then it would mean that the public interest may be injured. The public may be of the view that the insurance companies are now operating under effective regulations, but the difficulty of enforcing the regulations means that the agency of regulation can be captured.

Mr. President, I think it is important while this Bill goes through its various stages, that we also ensure that we can build the capacity for regulating this particular industry; capacity which certainly does not now exist in any meaningful way, given the debacles we have seen in the insurance industry in Trinidad and Tobago. I think now is a timely moment where we could identify the skills that we need, the technical expertise that we need to develop, examine what other jurisdictions, particularly the United Kingdom, are doing in this area, and to ensure that when the Bill is finally passed in the Parliament, that the regulator is particularly equipped so that the implementation of the law, which in effect is what we are really after, effective implementation of the law, will result in an industry which really can make the kind of contribution that the Minister of Finance and the Economy and I think all of us in this Senate would like to see.

Thank you, Mr. President. [*Desk thumping*]

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

Sen. Anthony Vieira: Thank you. Mr. President, I believe many of us in this Senate agree that this legislation is necessary and long overdue. This Bill is an impressive and formidable document. It comprises over 300 pages—294 clauses and eight schedules—clearly a lot of thought, hard work and research has gone into the drafting. More importantly, I acknowledge that there has been a high degree of consultation, and while a few have expressed concern about the requirements regarding capital adequacy and reserves, my understanding from all those in the insurance industry that I have spoken with, my understanding is that by and large this Bill has the support of the insurance sector.

Our current legislation, the Insurance Act, Chap. 84:01, was passed in November 1982, over 31 years ago, and that Act was largely based on a 1960s bit of legislation. Given the needs and challenges of the 21st Century, the current regime is archaic, regulation is limited, and there continues to be concern about the ability of insurers to meet claims as they fall due, and the relationship between the insurer and the insured is pretty much left to the principles of insurance contract law as developed by the courts.

One recalls the recent failures in the financial system both here and abroad. The dangers to the public of an outdated, inefficient and poorly regulated insurance system include a number of things: it allows for financial crime and fraud; it allows for unacceptable and unethical financial practices to take place; it allows for unfair competition in the marketplace. It allows for the deficient performance of professional services; it allows for breaches of privacy and confidentiality in respect of people's personal data; it allows for consumers to be taken advantage of bearing in mind that the parties to an insurance contract are unequal.

Insurance products can be quite complicated as we have heard and involved, and it is generally not easy for laypeople to understand insurance contracts. And yet, insurance plays such an important role in our financial system, and the insurance sector is a key part of our financial services industry, it has economic, social and strategic importance. The hon. Minister of Finance and the Economy said \$23 billion in assets.

Insurance allows consumers both retail and commercial to transfer risk, to buy protection and to save, for example, retirement and pension. In addition to providing an important service to individual consumers, the insurance industry underpins almost all forms of economic activity and contributes directly and indirectly to wealth generation and social well-being.

Accordingly, we need an insurance market that operates efficiently, competitively and in which all participants have confidence. Indeed I am happy to observe that under clause 6(2), the primary objective of the regulator, the Central Bank, is to maintain confidence in and to promote the soundness and stability of the financial system in Trinidad and Tobago. Under the proposed regime, the Central Bank is also required to promote the existence of efficient and fair insurance markets, and to maintain an appropriate level of protection for policyholders and beneficiaries of insurers.

Insurance (No.2) Bill, 2013
[SEN. VIEIRA]

Tuesday November 19, 2013

Mr. President, I believe that the proposed legislation will bring us in line with international best practice and standards, and will offer a proper regulatory framework for the insurance sector. Good regulation can bring a number of very important benefits, including: it will foster and maintain market confidence—like other parts of the financial sector, insurance is based on confidence; it will help reduce financial crime and fraud—consumer protection has been strengthened; it will promote public understanding of the insurance system; it will ensure that those doing business in the market are competent and honest—those carrying on insurance business will now have to deal with the regulator, the Central Bank, in an open and cooperative way; it will ensure the need for technical skills and caution in conducting a sound insurance business.

One of the aspects I particularly like is that sales representatives, agents, brokers and adjustors will now be required to pursue continuous education; clause 146. I only wish a similar provision could apply across the board for all the other professions.

This Bill will require insurers to conduct their business with integrity and to maintain adequate financial resources. The Bill emphasizes the importance of the responsibilities of senior management of insurance companies, and insurers must be able to demonstrate that they have sufficient financial resources to meet liabilities.

This Bill, I think, goes a long way towards ensuring that your parachute will, in fact, open when that ripcord is pulled; that in the time of need, the promise and expected assistance is, in fact, there. All property insurers will be required to put aside a prescribed amount, forming part of their capital as a reserve into a fund known as the catastrophe reserve fund, not to be withdrawn except for catastrophe: earthquake, hurricane and other natural disasters. Protection of personal data has also been enhanced.

The matter of data breaches and security risks is a very real concern that we need to be alive to, particularly having regard to the digital revolution and the impact of social media. When people apply to take out insurance, they are required to disclose sensitive personal information which must be true, because misrepresentation or non-disclosure can void their insurance.

It is, therefore, extremely important that such personal data is adequately protected; for example, that it is not allowed to be used for commercial or other purposes. I expect that the provisions treating with confidentiality and privacy will dovetail with the requirements and provisions set out in the Data Protection

Act, which has as its primary objective the protection of the individual's right to privacy, and the right to maintain sensitive personal information as private and personal. I expect that in due course the office of the information commissioner will consult with the insurance sector, with a view to developing an appropriate code of conduct, treating with the handling, storing and processing of personal data.

4.15 p.m.

The powers of the regulator and the courts have been clarified and enlarged. Under this Bill, the Central Bank will now have the necessary powers to gather and demand the information required to undertake its work. All in all, Mr. President, I am very happy with this Bill, which is based on high level principles and regulatory transparency.

I think the legislation also allows for a certain amount of flexibility in the system as the process includes the valuation of assets and the use of modern techniques to properly assess and measure risk. I would not like to see this Bill lapse again because of further delay, but I do have a couple areas of concern.

Clause 105(3)(b) provides that:

“any external provider of the insurer or financial holding company who provides information to the Central Bank or the Inspector regarding the conduct of an insurer, its affiliate or any director which the external service provider reasonably believes constitutes a violation of any...law.”

Or is in contravention of any written law can communicate such information or give an opinion to the Central Bank or the inspector in good faith and such communication shall not be considered as a violation of any contract for services.

My concern relates to whether this also embraces attorneys-at-law, in-house counsel, and if so how that might impact the ethics of the legal profession, especially as it obtains to the matter of legal professional privilege.

Under the rules of our profession, attorneys are prohibited from disclosing any confidential information concerning the affairs of their clients unless, of course, the client consents to such disclosure. So this is particularly so where legal advice privilege and litigation privilege is involved.

My other area of concern will be found at clause 279. That clause provides that, no later than 60 days after this Act comes into force, insurers shall enroll in an alternate dispute resolution scheme approved by the Central Bank. Now what

Insurance (No.2) Bill, 2013
[SEN. VIEIRA]

Tuesday November 19, 2013

does this mean? Where does this come from? There is no guidance in the explanatory note and while I very much support the use of alternate dispute resolution as a means for resolving disputes—and I am mindful that the courts are also leaning in that direction—this clause comes out of nowhere. It lacks context and I can only guess at its intent. Is this scheme to treat with disputes between Central Bank and the insurers, insurers and insurers; insurers and customers or all of the above? I really do not know.

What kind of ADR mechanism is contemplated? Are we talking mediation, arbitration, expert determination, an Ombudsman type scheme? Again, I really do not know, so perhaps the Government could shed some light on this.

There is just one other matter I would like to comment on before closing and this deals with the concern coming from certain members in the sector about the provisions relating to offences, in particular, clause 271, which provides that any contravention against the Act or the regulations is punishable by a fine not exceeding \$600,000 and to imprisonment for two years; clause 137(7), which provides that a person who fails to register is liable to a fine of \$350,000 and every director and officer of the defaulting company is liable on summary conviction to a fine of \$150,000 thousand and to imprisonment for five years; and clause 139(9), which provides that an agency or brokerage who carries on unauthorized business is liable on summary conviction to a fine of a \$150,000 and to imprisonment for five years.

There is some inconsistency in the sentencing options, but I think that the real concern that people have been expressing is whether offenders who are convicted will have to go to jail in addition to paying the indicated fines.

I think that that is really a misplaced apprehension. Under the Interpretation Act, I think it is section 68(3), it is provided that:

“where any written law more than one penalty linked by the word ‘and’ is prescribed for an offence, this”—is—“construed to mean that the penalties may be imposed alternatively or cumulatively.”

So, in other words, notwithstanding how it reads, the courts will have a discretion as to whether imprisonment should or should not be imposed. The judge is not bound to impose a jail sentence and, indeed, the court can use any number of available sanctions, including putting offenders on bonds, giving reprimand and discharge, entering plea agreements under the Criminal Procedure Plea Discussion and Plea Agreement, including making of community service orders. So without trying to minimize the usefulness of criminal sanctions in the regulator’s toolbox, I do not really see those provisions as either being harsh or oppressive.

I want to say I agree with Senators Henry and Al-Rawi. They made a strong case for the urgency in shoring up the use of this system. I adopt the words of Sen. Al-Rawi: we need to get on with the business of the joint select committee as quickly as possible. I agree with Sen. Ramkhelawan—I put my words—but when he was talking about the capital adequacy, it is not in anybody’s interest for undercapitalized insurance to be engaging and trading.

I also want to agree with Sen. Al-Rawi about the call for a harmonization of the winding-up rules. This only highlights how archaic and deplorable our current rules are. Even though we reformed our Companies Act, the fact remains, where winding-up provisions are concerned, we stayed with the old Companies Ordinance. It is high time to change it.

So, in conclusion, may I just say that having a robust, prudential environment will do much to boost and maintain market confidence. It will both protect consumers and I think it will also raise the bar regarding the performance of those carrying on insurance business in Trinidad and Tobago. Mr. President, I believe this legislation will bring us in line with international best practice and standards and it will certainly strengthen the regulatory framework.

As I mentioned previously, our financial sector requires an insurance market that operates effectively, competitively and in which all the participants have confidence. I believe that the passing of this Bill, Mr. President, will be a powerful step in that direction. I thank you.

Mr. President: Minister of Finance. [*Senator stands*] Sorry, sorry. Sen. Small.

Sen. David Small: Mr. President, Senators, I will be relatively brief in my contribution. I want to firstly say, I think that most people who have worked with me understand that I like structure and process and I believe that we have a sector in the country that is very important to virtually every person, but the existing regulations that are on the books completely allow them to do what they want.

I really want to give you an example of an experience of a Member of this Senate, who shall remain unnamed, going into a particular institution to do a simple transaction, renewing a car insurance policy. You go into the establishment, they tell you what you pay; you pay it, you leave.

Six weeks and two days later, that person receives a phone call, “Sir, you did not pay enough money; you paid the wrong amount of money and you owe us money.”

Sen. Hinds: On a Range Rover?

Sen. D. Small: So that the particular Member of the Senate asked a question, but I came to your store—

Hon. Senator: And a Porsche.

Sen. D. Small:—and you calculated it, how could I owe you money? And they were very insistent. The company shall remain unnamed. I will have separate discussions about that, but what is the protection for the citizen in a situation like that? You go to a place, you do a transaction, a month and a half later they are saying that you still owe them money.

This is the problem with the sector companies. There are unethical practices. They actually wrote the particular Senator a letter, you owe us the money. Unbelievable for me and this is why we need to have the Insurance Act.

I echo the comments and the views of the various Senators that we need to have some regulation in the sector. I think it is very important that we do that to make sure that regular people like the particular Senator, who is just a regular, normal person does not have to deal with these issues or has someone he can go to or she can go to and say, “Listen, I had this experience, can you help me solve this?”

The other thing I want to talk about quickly, I just wanted to join with the other Senators who mentioned the fact of how important Atrius is and what is the status of Atrius and what are the plans for Atrius and that the Government can share with us.

I think, if you take an average walk along the street, there are enough people around Trinidad and Tobago who have existing policies with Clico and would like to understand what the plan is going forward. I do not want to say anything more on that, but I think it is important for more information to come. I think more information is important.

The one thing I wanted to also mention, in his presentation the hon. Minister of Finance and the Economy spoke about increasing the stock exchange. I think that it is important to get more companies listed. Unfortunately, I have a pet peeve about the fact that the stock exchange does not represent the economy; that you look at the companies that are listed there and the sectors that are listed there, there is one large hole in the exchange; and that has to do with the companies that exist here in Trinidad and Tobago which represent over 45 per cent of GDP and when you look at the listing on the stock exchange, they are not there. I am not

saying that it is going to be easy, but I think it is something we should consider and understand how important it is; that you have huge companies here. They can at the very least have a secondary listing on the Trinidad and Tobago Stock Exchange.

You think about what that would do to the exchange; what that would do to the financial sector. I think that is something that is long—with the greatest respect, it is long overdue; that these companies have been operating here for 20, 30 years, reaping huge benefits and refuse, not interested, no pressure whatever, but they are not listed on the local stock exchange in any way.

I think because of the fact that the energy sector plays such a large role in an economy, it is a glaring oversight that you cannot go as a citizen of Trinidad and Tobago, with a few dollars willing to invest and invest in an energy company that is a significant player in the economy. I think that is something I would like, when the Bill goes to the committee and they are looking at the various strategies and things that the Ministry of Finance and the Economy team looks at, that is something that should be put on the table for further consideration.

The one thing I want to say, I think that the fact that insurance is near and dear to everyone and the fact that we as a country are moving forward—and it is important to understand that we are moving forward—but when you look at comparisons with other countries that are smaller than us, have less resources than us and where they are with insurance legislation, it is really glaring why we have not been able to catch up.

I think that I am one that says, “Listen, I think that this Bill is very important in Trinidad and Tobago, but I also say it must be done properly. Everything must be done properly and it must be able to also, critically for me, be in a place where consumers get what they pay for and they are protected.

What happens often in my few interactions is that things are done and companies, because of the way things are structured, are able to get away with things because the systems are in place to support what they do, but the things that are to call them to account for malfeasances or for unethical practices are not always in there. So that is the only caution I would like to share when the Bill goes to committee and Senators and Mr. President, I thank you for the opportunity to speak. [*Desk thumping*]

Mr. President: Minister of Finance and the Economy.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Thank you, Mr. President. I would like to extend my appreciation to the Opposition and Independent Benches for the comments which they have made. They have all been very helpful and certainly there are a number of things for us to consider as we move forward with this legislation.

I think a lot of time has been taken also speaking to the length of time it has taken to get to this point. It has been 12 years, since 2001—I am told even before 2001 the legislation has been under some consideration. So certainly it is something that we want to move forward with quickly.

I want to say that we are certainly committed to doing so and certainly it has not been 12 years under this Government. [*Desk thumping*] We are not 12 years yet, right, but I want to say that we are serious, hon. Senators, about moving this legislation forward. I want to take your point and, therefore, I know certainly as we go through the discussion, as we go through the contributions and the debate and so on, there will be pros and cons. There will be one side and the other and we have to find what is the optimal solution in terms of dealing with the particular issue before us. Therefore, there will be need for a lot of give and take at the level of the committee to ensure that we arrive at a solution that is in the best interest of Trinidad and Tobago.

4.30 p.m.

I am sure all the Members of the committee are committed to that, and I look forward to us being able to come back to this honourable House within the next few months with a final document, and I think we have made a commitment, in terms of the closing statements and so on, as to when we will seek to come back here, hopefully, with some kind of resolution of the issues that are before us.

As the hon. Senator indicated, it is a very considerable work—it is a very considerable Bill, and it certainly incorporates the thinking of many different administrations over the past few years, and I am therefore—I think, you know, I am feeling very positive that it is something that we can move forward within a reasonable period of time.

The question of Atrius, of course, has come up. I want to say with respect to the point about the chair of Atrius, certainly it is something I am going to look into and if the allegations are correct, we will certainly deal with that.

Sen. Hinds: “Ah hope yuh deal with them and yuh doh send them HDC after.”

Sen. The Hon. L. Howai: Well that, you know, I am sure will not happen. [Laughter] But in respect of Atrius, I want to say—[Crosstalk]—the thing is, in dealing with Atrius there are particular capital requirements that come into play, capital requirements that will be, perhaps, very significant in light of this new piece of legislation and, therefore, we need to make very clear allocations for that because I do not want to get a company up and running now, and then within a few months you suddenly hear, “Well, the capital that you started with, you need another few hundred million dollars otherwise you have to close it down.” We need to make sure that we allocate all the capital so we make a clear decision where we are getting the funding from so that we could move the entire company forward.

So the company is established, it has a board of directors, but we have not moved the assets over because once you move the assets you are going to have to put the capital in place, and that is something that is requiring our attention at this point in time, and it is something that we are attending to, and we know that we have to bring it to a quick conclusion because within the next few months we want to bring the whole CL Financial matter to a close.

The issue of the MHTL, I do agree and I do agree that it is something that is very critical and strategic for Trinidad and Tobago. This is very, very, critical to our overall fiscal position. You are talking about several billion dollars. The matter is in arbitration, and we have to be very careful how we treat with it. I want to say that the arbitration decision has not been put out as yet, but I did say and did ask—that is in response to the point that the hon. Senator was making, Sen. Dr. Henry—that notwithstanding, without prejudice to the decision of the arbitrator, if there is a basis on which we can come to a position that we feel is the maximum value for Trinidad and Tobago, we should not necessarily leave it in the hands of the arbitrator to decide for us.

We should seek to move forward with the process, and see if we can come up with a solution that maximizes our value. If, however, we cannot do that, then we revert to the arbitrator as a final position. So that is the position which I have taken in respect of that, and it is without prejudice to the final decision of the arbitrator. So just to make sure that it is clear as to what the position is. [Crosstalk] No, what they were saying is we have not made a final decision. I did not say that am—[Interruption]

Sen. Dr. Henry: You are dealing!

Sen. The Hon. L. Howai: But the important thing is because it is so important to our overall fiscal position, we have to ensure that we get the best possible value for this. So all of these are things that we have to make sure that we manage carefully as we go forward; Atrius, MHTL and the CL Financial deal, all of them are critical. There have critical timelines, and we, therefore, need to make the decisions quickly, but we need to make sure that we study them properly before we make the decisions. So I just wanted to clarify some of those points that had been made.

Sen. Hinds: Just by way—[*Interruption*]

Sen. The Hon. L. Howai: Okay, all right.

Sen. Hinds: Since you are in the vein of clarification—layman in this world, in that regard—I want for clarification to hear whether in response to Dr. Henry, the Government is engaged in negotiation for the sale of the asset or otherwise, for clarification.

Sen. The Hon. L. Howai: No, no. We are not now in the process of negotiation, but I have asked that we explore that possibility with the other side, but the process has not started as yet.

Sen. Hinds: The Government is contemplating same?

Sen. The Hon. L. Howai: Contemplating, contemplating. Right! If we can come to a decision—and listen carefully to what I am saying—that maximizes the value that we can get from the asset; if, however, we are not comfortable with that arrangement, we will go to the arbitrator for the arbitrator to decide. So that is in the process of being explored, at this point in time, but no negotiations have started with respect to the process.

Sen. Dr. Henry: [*Inaudible*—all kinds of questionable dealings.

Sen. The Hon. L. Howai: Well, the thing is, it can—I mean, no matter what you do opens up the doors to all kinds of questions. We need to be in a position to respond to each one of the questions [*Desk thumping*] and they are valid questions, and I am taking the time to deal with it because they are important to the national interest and, therefore, we have to ensure that we arrive at a decision that is in the best national interest—the best interest of the people of Trinidad and Tobago—and not get railroaded by concerns about, you know, what somebody might say or not say. It is a question of what creates the most value, and that is why I thought I would spend some time and speak to that, and also put on the table the issue to which you had referred.

With respect to the Securities Act, we have made the amendments that were requested with the exception of one, and that one we have not yet dealt with is the question of the single regulator which requires much more thought. So we do not want to hold all of the other amendments up simply for that specific issue. So what we have done is, with all of the other amendments to the legislation, Mr. President, we have put into the revised amendments to the legislation which is now before the LRC, and we are hopeful within the next—certainly, by January, that process should be finished, and then we can move to the amendments in this honourable House. So we are moving forward as far as the Securities Act is concerned.

I note the comments which have been made, very valid comments concerning the treatment of local and foreign insurers. I understand what the thinking was in respect of the difference in treatment and, again, that is what I was referring to that you may have—you will always have differences of interpretation and opinion about an issue, and we then have to come down on a policy position on it. I understand why they have gone the route that they have gone, but I understand the concerns that have been expressed by Senators, and we certainly will pick it up again in the joint select committee.

On the issue of the winding up, that is a critical one, and we will deal with that. I should say that I have started to look at the—*[Interruption]*

Sen. Ramkhelawan: Will you give way? Thank you for giving way, Minister. Would you be in a position to say when you will bring back the securities legislation given that all the amendments save one have been agreed to at this point in time?

Sen. The Hon. L. Howai: Well, we expect that the full review by the LRC should be completed by January, so we expect that immediately after that. So, perhaps, no later than early February, we should be in a position to come forward with those amendments.

Sen. Al-Rawi: The winding up.

Sen. The Hon. L. Howai: With respect to that, where we are with that is that—well, we will pay particular attention to that specific issue. I should add that the insolvency legislation, the Insolvency Act, was passed some time ago and was never really proclaimed. I have recently—based on the urging of Minister Bharath, what we have done, I have taken a look at it, and one of the issues is the regulations that go with the Act which have not been developed, and I am looking at the possibility, at what can be done to fast-track that process with a view to,

Insurance (No.2) Bill, 2013
[SEN. THE HON. L. HOWAI]

Tuesday November 19, 2013

perhaps, having the regulations laid by negative resolution—I understand that is all that is required—and then they have the Act proclaimed. So I am looking to see to what extent that can be completed by May of next year. So, hopefully, that should add some additional framework for addressing some of these issues.

I do take the point about the need—and both Sen. Vieira and Sen. Small raised the issue of the insurance—the issues with respect to implementing the legislation and the application of these new regulations and the Act itself, and its impact on individual insurers, on the consumer, and a big part of that is the capacity of the Inspector of Financial Institutions of that unit, and our intention is to ensure that that is strengthened. There is a very proactive programme in place to ensure that that office has the required strength and capacity to help manage and police this new piece of legislation once it comes into effect.

Sen. Dr. Mahabir: Will the Minister give way?

Sen. The Hon. L. Howai: Yes.

Sen. Dr. Mahabir: Minister, I was just wondering in that regard whether, in fact, just as we have an office of the banking ombudsman: is the Government contemplating having an office of, say, an insurance ombudsman to deal with the kinds of problems faced by the small consumer in Trinidad and Tobago?

Sen. The Hon. L. Howai: Very good point. Yes, that is so, and the issue of whether it should be one ombudsman or two—that is the financial services ombudsman should incorporate both banking and insurance—is something that we will arrive at a solution to as part of the entire deliberation for this piece of legislation.

The Exchequer and Audit Act was mentioned as an issue, and I take the point and I am currently contemplating whether we should not include, at least, the critical amendments in the Finance Bill to speed the process forward so that when we lay the Finance Bill in a few weeks' time, we deal with not just what is in the budget, but in some of these additional pieces of legislation which will allow us to fast-track particularly that change and, particularly, the payment mechanisms that exist, but I do recognize—[*Crosstalk*] Yes, but we will. I mean, there is no question the Finance Bill will come through the House to get to the Senate.

So I expect that particular issue—in fact, I have already given the instruction to the Treasury Solicitor to start that process. It may be an issue of, “Well, can we get it done for the timeframe that I have?” But I have already asked for it to be done, so I am focusing on trying to ensure that when we come forward with the legislation, the Finance Bill, that we could deal with both issues at the same time.

There are a number of other issues which have been raised and I am grateful. I do not want to go into all of the changes: the fit and proper regulations; the capital adequacy. I have to admit, Sen. Prescott, the whole issue of the mental element of guilt being excluded is something that went straight over my head, but I will certainly ensure that I have the likes of Mr. Al-Rawi in the committee. So I will certainly ensure that we deal with some of those issues that you mentioned as we move forward.

So I want to say, Mr. President, I would like to again thank Senators for the comments that were made, very important comments, very interesting comments—Sen. Henry, very interesting comments [*Laughter*—and we are certainly going to pay attention to all of them, and we will ensure that we have a piece of legislation when we come back to this honourable House, that we could all be proud of.

Mr. President, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

4.45 p.m.

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): Mr. President, I beg to move that a Bill entitled an Act 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 six Members of the Senate and six Members of the House of Representatives, and that this Committee be empowered:

1. to discuss the general merits of the Bill along with its details;
2. to adopt as part of its work, the work of the Committee previously appointed in the third session; and
3. be mandated to report by January 31, 2014.

And further, I beg to move that, should the House of Representatives concur, that the following Senators be appointed to the Committee: Sen. L. Howai, Sen. Dr. B. Tewarie, Sen. V. Bharath, Mrs. H. Drayton, Sen. S. Ramkhelawan and Sen. F. Al-Rawi.

Question put and agreed to.

Adjournment

Tuesday November 19, 2013

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 to Tuesday, November 26, 2013 at 1.30 p.m. On that day, Mr. President, it will be Private Members' Day and we will debate the Motion moved by Sen. Helen Drayton.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 4.48 p.m.

WRITTEN ANSWERS TO QUESTIONS

The following questions stood on the Order Paper in the name of Sen. David Small:

**LNG Industry
(Government Revenues from)**

- 18.** Could the Minister of Finance and the Economy provide the Senate with the Government revenues from the LNG Industry broken out into upstream royalties, corporation and other taxes, upside sharing for the period 2010 to 2013?

The Minister of Finance and the Economy (Sen. The Hon. Larry. Howai): Government revenues from the LNG industry for the period 2010 to 2013 are as follows:

Tax Type	Fiscal 2010-2011	Fiscal 2011-2012	Fiscal 2012-2013
Corporation Tax	\$1,305,794,795	\$927,941,854	\$1,557,447,486
Business Levy	\$4,356,431	\$4,958,672	\$1,246,817
Green Fund Levy	\$20,956,377	\$20,347,506	\$21,523,856
PAYE/Health Surcharge	\$66,814,146	\$74,741,080	\$74,173,884
TOTAL	\$1,397,921,749	\$1,027,989,113	\$1,654,392,043

Data on Government revenues from royalties from the LNG industry cannot be easily presented since natural gas is sold by upstream producers for liquefaction, as well as domestically for downstream and other activities. There is also consideration that natural gas revenues need to be disaggregated from condensate revenues, and various upstream producers are governed by different contracts.

It is therefore difficult to ascertain the component of royalties paid specifically for gas to be liquefied as LNG as requested by the Senator.

**Ammonia Industry
(Government Revenues from)**

- 19.** Could the hon. Minister of Finance and the Economy provide this Senate with the Government revenue from the Ammonia Industry broken out into its component parts such as upstream royalties, taxes from gas sales and corporation taxes for the period 2010 to 2013?

The Minister of Finance and the Economy (Sen. The Hon. Larry. Howai): Government revenues from the ammonia industry for the period 2010 to 2013 are as follows:

Tax Type	Fiscal 2010-2011	Fiscal 2011-2012	Fiscal 2012-2013
Corporation Tax	\$1,758,480,895	\$1,798,247,653	\$1,566,865,315
Business Levy	\$450,000	\$97,710,000	\$1,700,000
Green Fund Levy	\$14,422,542	\$15,731,434	\$14,627,671
PAYE/Health Surcharge	\$60,341,779	\$64,427,633	\$80,675,286
TOTAL	\$1,833,695,216	\$1,976,116,720	\$1,663,868,373

Data on Government revenues from royalties from the ammonia industry cannot be easily presented. Natural gas is sold by upstream producers to the National Gas Company (NGC), which then sells gas to downstream entities according to the respective contractual sales agreements. Gas produced and sold to NGC is commingled and subsequently sold downstream.

It is therefore difficult to ascertain royalties paid by each company based on their respective sales contract which can be collated to determine revenue from royalties paid to the Government.

**Crude Oil Exports/Refined Products
(Government Revenue from)**

21. Could the hon. Minister of Finance and the Economy inform this Senate of the Government revenue from crude oil exports and refined products for the period 2010 to 2013?

The Minister of Finance and the Economy (Sen. The Hon. Larry. Howai): For the period 2010 to 2013, oil revenues was as follows:

- Fiscal 2010 - \$17,844.90 million
- Fiscal 2011 - \$20,146.70 million
- Fiscal 2012 - \$19,811.80 million
- Fiscal 2013 - \$20,106.00 million (provisional)

This oil revenue is recorded for Central Government Fiscal Operations, under Total Revenue and Grants.

However this oil revenue figure comprises taxes from oil companies, withholding tax, royalties on oil and gas, shares of profits from oil companies under production sharing contracts (PSCs), oil imposts, signature bonuses – competitive bidding and unemployment levy. This figure for oil revenue cannot be disaggregated to isolate Government revenue from crude oil exports and refined products only. Tax submissions from companies do not disaggregate taxes in this format. Consequently, the tax authorities are unable to present the data in the disaggregated way requested by the Senator.