

*Leave of Absence**Wednesday, July 02, 2014***SENATE***Wednesday, July 02, 2014*

The Senate met at 1.30 p.m.

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

Mr. Vice-President: Hon. Senators, I have granted leave of absence to Sen. Helen Drayton and Sen. Rev. Joy Abdul-Mohan from today's sitting. I have been advised that there are no instruments.

ORAL ANSWER TO QUESTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. Vice-President, by agreement we had deferred that question for when Sen. Avinash Singh is here because there are certain issues that he wants to raise personally. Also, the Minister of Transport, who was supposed to answer the question, indicated that he would be here, but I do not think it was scheduled on this occasion because this is not a normal sitting of the Senate.

The following question stood on the Order Paper in the name of Sen. Avinash Singh:

**VMCOTT
(Details of)**

- 91.** With respect to the Vehicle Management Corporation of Trinidad and Tobago, could the hon. Minister of Transport please inform this Senate as to:
- a) whether the CEO contract at VMCOTT was terminated by the new Chairman of the Board;
 - b) if the answer to (a) is in the affirmative, on what basis was it done;
 - c) whether the Chief Operating Officer position at VMCOTT was an existing position prior to 2010;
 - d) whether the Chairman of VMCOTT is an Executive Chairman; and
 - e) have the Managers at VMCOTT met the minimum qualifications for their positions?

Question, by leave, deferred.

**MISCELLANEOUS PROVISIONS
(LICENSING COMMITTEE) BILL, 2014
(House of Representatives Amendments)**

The Minister of Legal Affairs (Hon. Prakash Ramadhar): Mr. Vice-President, I beg to move the following Motion in my name:

Be it resolved that the House Amendments to the Miscellaneous Provisions (Licensing Committee) Bill, 2014, listed at Appendix II, be now considered.

Question proposed.

Question put and agreed to.

Clause 5(f).

House amendment read as follows:

Delete subclause (f) and substitute the following:

“(f) in section 14—

- (i) in subsections (1) and (2), by deleting the words “Licensing Committee” and substituting the word “Magistrate”;
- (ii) in subsections (3) and (4), by deleting the word “committee” wherever it occurs and substituting the word “Magistrate”; and
- (iii) in subsections (5) and (6), by deleting the words “Licensing Committee” wherever they occur and substituting the word “Magistrate”;

5(g) Delete subparagraph (i) and substitute the following:

“(i) in subsection (1)—

- (A) by deleting the words “Licensing Committee” and substituting the word “Magistrate”;
- (B) by deleting the word “it” in the first place where it occurs and substituting the word “he”; and
- (C) by deleting the word “it” in the second place where it occurs and substituting the word “him”;

5(o) Delete subclause (o) and substitute the following:

“(o) by deleting section 28 and substituting the following section:

“28. All evidence given before a Magistrate under this Act shall be on oath.”

Mr. Ramadhar: I beg to move that this Senate doth agree with the House of Representatives in the said amendments to clause 5 of the Miscellaneous Provisions (Licensing Committee) Bill, 2014.

Mr. Vice-President, let me thank you and Members of the Senate for the opportunity to address you again on this Miscellaneous Provisions (Licensing Committee) Bill.

You might recall, Mr. Vice-President, that in March of this year I had asked hon. Members to approve amendments to several pieces of legislation, many of them quite antiquated, with a view to easing the burden of citizens in obtaining licences and renewal licences to operate various types of businesses. After some lengthy debate, the Senate, in its wisdom, proposed a number of amendments to that Bill. You might recall, also, that during the committee stage there was quite a lot of discussion, very healthy discussion I might add, which informed the final Bill that was sent to the other place. Mr. Vice-President, one of the clauses which attracted the most discussion was clause 5 which the Senate examined quite thoroughly and for which there were several proposals put forward.

In that process of attempting to get the right formula there was a lot of back and forth, with suggestions and counter suggestions coming from almost everyone. As you would imagine, making amendments on the fly is very difficult, but having to make two amendments all on the fly can be quite a challenge. Unfortunately, in that process there were a few minor typographical errors and some oversights. These are what bring me back to the Senate here today.

Mr. Vice-President, I am certain Members would have already perused the House amendments. The said amendments to clause 5 of the Bill do not in any way alter the meaning or substance of the provisions which were agreed to by the Senate. They are simply necessary to ensure internal consistency, to remove typographical errors and to allow for the proper reading of the Bill—essentially, it is but a tidying-up exercise.

The amendment to subclause (f) was necessary to address an oversight, mainly in section 14(3) and (4) of the Registration of Clubs Act, Chap. 21:01. Accordingly, the word “committee” was deleted and substituted by the word “Magistrate” so that the magistrate would have the power to strike a club off the register on the grounds stated in that section. That was to ensure consistency with the policy and other provisions of that section in the Bill in general.

The amendment to subclause (g) was necessary to tidy up the provision so that it would read clearly. The amendments to subclause (o) was necessary to correct a minor oversight. The words “which the committee or any other Member thereof is hereby authorized to administer”, in section 28 of the Registration of Clubs Act, should have been deleted at committee stage, but through inadvertence were allowed to remain.

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That being the case, there is really nothing for me to add that had not already been ventilated in the original debate, and therefore, if I may be permitted, simply commend these amendments to hon. Members.

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

Mr. Vice-President: Hon. Senators, before I put the question, I just want to take the opportunity as Acting President of the Senate to congratulate the Minister of Legal Affairs, Prakash, for his re-election as political leader of the COP. Congratulations. [*Desk thumping*]

Question proposed.

Mr. Ramadhar: Mr. Vice-President, I beg to move. [*Desk thumping*]

Question put and agreed to.

PURCHASE OF CERTAIN RIGHTS (HCU) BILL, 2014

Order for second reading read.

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

That a Bill for the purchase by Government of certain rights belonging to shareholders and depositors of the Hindu Credit Union Co-operative Society Limited, to empower the Minister with responsibility for finance to make payments and issue bonds for the purchase of those rights and for related matters, be now read a second time.

Mr. Vice-President, before getting into the Bill itself, I would like to provide to this honourable Senate a brief overview of the context within which this particular piece of legislation has been laid.

The credit union sector plays a very significant role in the lives of a significant number of citizens of our country. Many of them have entrusted their life savings and do much of their ongoing business with credit unions. Today credit unions have approximately \$9.5 billion in assets which amounts to approximately 3 per cent of the total financial system.

Members would agree that \$9.5 billion is quite a substantial amount of money. The credit union sector is currently regulated by the Commissioner for Co-operative Development, which is a unit within the Ministry of Labour and Small and Micro Enterprise Development. The intention is that eventually as has been agreed as far back as 2005, this would fall under the aegis of the Central Bank. And I indicated, Mr. Vice-President, the credit union sector touches the lives of many persons, and it is important because of the role that it plays, and, especially because one can differentiate the credit union sector from the banks themselves.

The adage that, in a sense, applies to the sector, as they have told me many times when we have met, is not for profit—they do not measure what they do by how many millions of dollars they make each year; but not for charity either, they are not suggesting that they are here for charity, but rather for service. And, that is the guiding principle which touches the lives of everyone within the credit union sector. And, because of this it is absolutely important that we have a system which allows us to regulate the sector in the way that it should. I am told about one-third of our working population holds membership in credit unions, so it does touch the lives of many persons within our society, and these people place great trust in these institutions.

The failure of this particular institution, the Hindu Credit Union, is one which, in a sense, is a failure also of our regulatory system, our inability to manage, to control, to direct, and perhaps to take preemptive action to ensure that the losses that have been incurred and the activities which took place should not have occurred.

1.45 p.m.

Notwithstanding that, Mr. Vice-President, this is where we are at this point of time. We are in a situation where quite a large number of persons have been affected and have lost money within the Hindu Credit Union. Somewhere around October 2008, the organization, the cooperative, was placed in liquidation and a receiver was appointed. The disposal of assets however, to realize on the losses which have been incurred has been considerably slowed, because of a number of continuing legal matters, litigation which have been brought against the institution, and in some cases, injunctions which have been filed against the liquidator.

Accordingly, it has been extremely difficult to dispose of some of the real estate holdings which this organization has. In looking at the balance sheet of the organization, Mr. Vice-President, of the \$181 million in loans that were on the books of the organization, approximately \$139 million had to be written off. So, substantially all of the loan assets which were on the books of the credit union could not be recovered. In addition to which, we found that there were assets on the books, for example, there is a piece of land in Carlsen Field which I am told is reasonably valuable, but for which—for some reason, well perhaps, for a reason that we do not wish to say here—but the HCU has no legal title, yet it is recorded on the books as an asset.

There is a balance due of almost \$1 million from another purchaser for lands in St. Helena for which, again, we have found out that this amount is uncollectable. In fact, when we looked at the total liabilities of the Hindu Credit Union, which in total, amounted to \$929 million, of which members' shares as well as

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the investments that they had made, the deposits and so on, which they had made in the institution, those amounted to about \$800 million. When we offset that against the assets of the organization, we realized that there is a deficit of almost \$700 million, quite substantial for an organization that had assets of less than \$1 billion.

So, Mr. Vice-President, we are in the situation where we recognized the fact that there are losses that are going to be incurred, and the investors who had put their money into this institution, either as deposits or as shares will have very little likelihood of recovering any of the moneys that they have put into the institution. As a consequence, in 2010, this Government made an offer of relief for the depositors and shareholders in the Hindu Credit Union, and in this particular case, of course, it is unique in the sense that in the case of a credit union, normally, you will not bail out shareholders. That is the normal practice. I recall when, for example, the old Workers Bank, the original Workers Bank had gone into—had difficulties and the Central Bank had to step in to restructure the institution in 1989, all of the shareholders lost their money. They got whatever was the net asset value, but beyond that nobody got anything else. And normally that is the case.

But in the case of the credit unions however, the shares represent in essence the equivalent of what would be a deposit in a bank. In the case of a credit union, members really put their money in as shares in the institution and they borrow against those particular assets—their assets, it will be shares in the books of the credit union—and they borrowed against that, in the same way that a depositor in a bank would make a deposit and then will be able to put that deposit up as security for the loans that they have.

A shareholder in a bank, of course, can put some of their shares up as security if it is being traded widely in the stock market, and to some extent I suppose one could argue that there is some element of the ability to pledge the particular asset. But in the case of a credit union, in particular, the issue of the shares and the shareholding that each of the shareholders in the credit union have, we see it as slightly different because of the nature of the relationship between the credit union and the shareholder.

So as a consequence, it was agreed that we would provide relief both to shareholders as well as depositors in the Hindu Credit Union. And the process followed more or less the same process as had been followed for the Clico bailout which we did for the EFPAs. So persons with balances under \$75,000 received cash, and persons who had balances in excess of \$75,000 would have received cash up to \$75,000, and then will receive bonds structured in the same way as had been done for the Clico bailout, which in a sense, would require you to receive zero-coupon bonds which have a maturity, a sliding maturity of over 20 years.

In total so far, we have made payments to a little over 19,000 persons in the Hindu Credit Union or former members and depositors in the Hindu Credit Union. And the purpose of this particular Bill is really intended to facilitate us being able to make payments for those who held amounts which were in excess of the \$75,000 limit. I should add that, over the period of time, what we have also done is that we have put arrangements in place to facilitate compassionate relief situations; situations: where persons—and this is similar to what we did in Clico—would have incurred losses, and perhaps what I could call matters of life and death, they would have, based on provision of certain documentation, been able to receive the payment of their funds in cash on a very exceptional basis. So on a limited basis, Mr. Vice-President, we have made payments to some of the shareholders and depositors in the Hindu Credit Union.

This particular Bill is a very short Bill and it is structured along the same lines as the Act which had been enacted to facilitate the payments to the EFPA holders, holders of short-term investment products in Clico. What we have sought to do is, similarly, make the bonds which will be issued, exempt from stamp duty so they will be able to be traded, and the terms and conditions would be the same as the terms and conditions which existed on the Clico bonds which had been issued.

Unfortunately however, we will not be able to structure a similar type of vehicle, such as the CIF, that we were able to do for Clico, and therefore while the holders of the EFPAs who accepted the offer of bonds and then further accepted the offer to exchange their bonds to take units in the CIF, in this particular situation, those persons will not have that opportunity. And the difference really is because of the fact that, in the case of Clico, there are assets. In this particular case, there are no assets which we can similarly put into some kind of a structure that would allow persons to be able to do the conversion. It means therefore, Mr. Vice-President, that if someone went to the bank and sought to discount all of their bonds, it is very likely that they may not get more than 50 cents on the dollar if they tried to get all of their funds right away, and in some cases, may actually get less than that.

So, there is some element of, perhaps cost, that one could say would still accrue to persons even though we are putting this particular structure in place. The structure was designed simply because we also had to be mindful of how much cash we were injecting into the system, and certainly in the case of Clico, we would have had to put another \$20 billion of cash into the system if you were putting all of it—sorry, not 20, 20 would be the full amount; I think the EFPAs would have been somewhere in the region of \$11 billion to \$12 billion.

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So, that is the amount of cash we would have been loading into the financial system and the structure that had been devised before my time, but I think it is a structure that is very appropriate, allowed individuals to be able to receive their money and for the Government through this mechanism to facilitate that without having to inject a substantial amount of cash into the system with all of the other implications which such a huge build-up of the liquidity would have created.

Mr. Vice-President, the Government has agreed that two state agencies would be charged with ensuring the administration. The first is the Central Bank or a financial institution which we will name to act as the fiscal agent for establishing and maintaining a register of bonds and bond holders, and then secondly, to facilitate the payment of the bonds at maturity date. The Minister of Finance and the Economy will make regulations for carrying out the purpose and provisions of this Bill, including the denomination of the bonds, the transfer of the bonds, the form issued and the recording of the bonds and the method of holding the bonds. What we have done following consultation with colleagues in the other place—on the other side, in the other place—is that we did make an amendment to reflect the fact that we wanted to be absolutely sure that persons who were related parties in no way would have benefited from this particular Bill that we are asking the Senate to approve. So what we did is we put an explicit statement in the Bill itself which allows us to be able to exclude related parties from payments as we would have defined in the amendments to the Bill.

So, Mr. Vice-President, this is a matter which has dragged on for quite some time. It has been 2010, we are now in 2014, it has been four years that this had continued. Many persons have waited for a long period of time, some have died in the process while waiting and it is incumbent on us to speed up the process from here, to try and ensure that persons receive whatever is due to them in the shortest possible time. We are putting arrangements in place to facilitate the administration which itself will take a few months before it is actually completed.

In the other place, Mr. Vice-President, we got the full support of both sides of the House and we do look forward to the similar support from our colleagues on the other benches for this particular piece of legislation. With these few words, Mr. Vice-President, I beg to move. [*Desk thumping*]

Question proposed.

2.00 p.m.

Sen. Stuart Young: Thank you very much, Mr. Vice-President, Members of the Senate. It seems that not so long ago we were here earlier this morning. I think we were probably leaving the Chamber in the wee hours of the morning.

Mr. Vice-President, if I may start by just declaring at the outset, in relation to the Hindu Credit Union, I have had—I am not a shareholder—some history with the organization, starting with an investigation that took place in 2008. So I would like to put that there upfront. I have also participated in the commission of enquiry into the failures of CLF Clico amongst others, as well as the Hindu Credit Union. So again, I put that on the table as a declaration, Mr. Vice-President.

In fact, it is since 2008 I have been intimately aware of what has taken place with the Hindu Credit Union and the debacle that took place, that led to the intervention, that subsequently led to the liquidation in 2010, and I was recalling this morning that in this process it was the first time I saw, but I did not get to meet Sen. Devant Maharaj. I also saw Sen. Ganga Singh. There was a meeting in September 2008 at the Hindu Credit Union Convention Centre where both of those hon. gentlemen were—*[Interruption]*

Sen. Maharaj: Accosted.

Sen. S. Young:—accosted and came up onto stage.

I was there to make a presentation to the shareholders and that was a turning point for me. I do not want to go into too much because I know the investigation is afoot and that we are still awaiting the report from Sir Anthony Colman into the commission of enquiry into the failure of Hindu Credit Union. But I think that meeting was a turning point in that you had a gathering, Mr. Vice-President, of the shareholders and the majority of depositors of this failed institution, and when you looked out into the crowd at the cross section, you saw some of the persons that Sen. Howai was referring us to a short while ago. You saw what I saw, were persons who had obviously worked hard throughout their lives. There were a great number of them who had aged and they had put their life savings. This is what they were telling us. They had put their life savings into this institution and they had trusted Mr. Harry Harnarine to deliver the high rates of interest and it had failed.

But what was the turning point of that meeting for me, Mr. Vice-President, and my friends on the other side can attest to this, is that thugs took over the meeting and prevented us from carrying out the purpose of that meeting, which was to inform these poor shareholders, poor not necessarily from a financial point of view, but from the way they were being treated by a small band of thugs and preventing us from giving the real story of what had happened, why the institution had failed and what we had found and were facing when we had entered into the institution by way—Sen. Howai has given us few of the examples of the great mess that was discovered upon entering the Hindu Credit Union, and it was through no fault of the majority, the vast majority of these shareholders, but rather a small band, a small cabal.

Sen. Howai touched on, a short while ago, that it is not usual for Governments to step into a situation like this and give a bailout, so to speak. But I think the cross section of society that is greatly affected by this failure—and a couple years after we were then faced with the—well, a year after, the Clico situation which we could not have predicted at the time when we were dealing with the Hindu Credit Union, it was an important policy decision and one to be applauded by the Government of the time to step in and provide some level of comfort to these shareholders and depositors of the Hindu Credit Union.

I agree with Sen. Howai, it has taken us too long to get to the delivery point. They took a good policy decision to deal with those who are under the \$75,000. There is no magic in that. At the time it was the statutory level for deposit insurance and I think that was the right principle because, of course, those who did not have the sufficiency of funds and they were capped by the \$75,000 were at least given some measure of immediate relief.

Now I have had—and I am going to put on the table here—a difficulty myself, philosophically, in understanding the full extent of these bailouts in both Clico and Hindu Credit Union, and a decision to necessarily provide 100 per cent bailout. Because, I think what we have signalled is people who were duped; yes, they were duped, but they took the risk as we all take a risk when we are investing; what they went for was high interest rates. They obviously took a decision at the time—and this was a discussion we were having yesterday afternoon—to forego investing in the more traditional and conservative financial institutions, and they went for the big interest rates that were being offered by the Clicos and the Hindu Credit Unions of the time.

But anyway, the decision has been taken and what we are here today to do, is to pass legislation to permit the Minister of Finance and the Economy to go ahead and fulfil this commitment that was given to provide the rest of the comfort. And as he said, it may not equal to 100 per cent if you want your money immediately through the methodology that they are going to use these bonds, but it is nevertheless going to provide a level of comfort and a repayment and a bailout.

Now, the Minister did go some way in providing us with a description of the current landscape. One of the points that I intend to make is that the liquidator has been in there since 2010 and what I would have liked to have seen accompanying this piece of legislation, this Bill—and I think it is incumbent upon us to provide it to the population, to the citizens of Trinidad and Tobago, Mr. Vice-President, because we are asking them to foot this Bill—is a current statement of affairs. A liquidator has been in there for long enough, let us see what is the current

statement of affairs. I understand what Sen. Howai has said, that the assets are nowhere near the liabilities, but we need for full transparency to set out, Mr. Vice-President, in my humble opinion, a snapshot, a current snapshot of the statement of affairs of this failed institution, this failed credit union.

So I would like to ask the Minister to consider getting the liquidator through publication in the daily newspapers, in the press, through some methodology of putting that information out there because we are asking the citizenry of Trinidad and Tobago to once again pick up the bill for what a small band of people caused to a lot of people, a lot of heartache and stress and strife.

One of my other points was, I was going to ask the hon. Minister to give us an idea of the state of the assets, but he has done that and he has told us of the woeful inadequacy of the state of the assets and I can attest to that as well, that a lot of—first of all, they did not even have a register of assets, but when you started to gather or attempt to gather what assets existed, a lot of the titles and deeds for most of the property were in disarray.

And lastly, more so for public consumption, when dealing with credit unions I think it is important, Mr. Vice-President, for us to understand, and it becomes very critical in a short while when we start looking at the Bill, to understand that with the Hindu Credit Union there are really two liabilities that the Government is seeking to take control of from the various individuals and, that is, shares and deposits—certificate of deposits. And the truth is under the by-laws, to take deposits, to be granted loans, et cetera, you had to be a shareholder of the Hindu Credit Union. So in looking at this and in assisting in the attempt to bail out, it is necessary that the Government takes over both the shares and the certificates of deposits of the affected persons and their rights, their title, the benefits from those two types of instrument—shares and certificates of deposits.

Of course, traditionally, as Sen. Howai was referring to a short while ago in exchange for your shares and your certificates of deposits, that then gave the lifeblood to the credit union to go and give loans which is traditionally what credit unions have been set up to do—provide loans at better rates of interest and with less security to their membership. But we know the story of why this went wrong.

Having given that brief introduction, I would like to just turn to the very short Bill, as Sen. Howai said, and just highlight a few points that have struck me. The first is—and Sen. Howai actually gave me the information I was seeking. He said—I would like you to correct me if I am wrong. But it was in October 2010 that the Government made the offer of relief. So this is the offer to shareholders and depositors that this is the type of relief we can provide you. You sent out the forms, et cetera, for them to take up the offers. Correct?

Sen. Howai: Yes.

Sen. S. Young: Thank you. So when we look at the definition of “depositor”, I want us to be cautious because it says:

It—“means a person who is the holder of a normal or special deposit in HCU issued in accordance with the Bye-Laws, or in any case where the person has assigned any benefit, right, title, estate or interest in a normal or special deposit to a third party, prior to acceptance of the offer of the Government to purchase the same...”

And I think there is a word missing there. I think it should be “the same to such third party;”.

But this is the important point, Mr. Vice-President, and I would like to convey it to the hon. Minister. There is a period in time that is captured here, hon. Minister, that the related parties may escape what we are trying to attempt by specifically expressing a definition for related parties because, what we are saying is “where a person”.

So if I was a legitimate shareholder and depositor in the Hindu Credit Union in 2008, and prior to the offer being made in October 2010—that is the cut-off point. Sorry, I reverse it. If I was a related party—so if I was Mr. Harnarine, once I assigned my deposits or my shares prior to October 2010—so prior to the offer of the Government to purchase same to a third party, I have escaped under the radar. We cannot allow that. We need to tighten that up because anyone who assigned their rights to their shares or deposits prior to October 2010, the offer being made by the Government, they skate under the radar of related parties and that person who now holds the paper at the offer time, in October 2010, can go now and seek the encashment by requesting the bonds that you intend to float. So in looking at the depositor definition, we need to be aware of that and find a way to ensure that that does not happen.

Of course, this is all historical. It has already happened. So what we are trying to do is shut the door—and I am sure we can do it via the right language—from any related party prior to the offer period who may have assigned his or her rights, title, benefit, et cetera, to a third party, getting their money through the back door.

I commend the Government for accepting what was suggested in the other place, in the House of Representatives, of including a “related party” definition. That has tightened it up. It has made it a better Bill. My only other concern is found at clause 4. Clause 4(1), we say:

“The Minister may make payments in any form whatsoever including the issue of bonds for the purpose of purchasing the rights, benefits, titles, estates or interests belonging to a shareholder or depositor of HCU who is not a related party.”

Now I understand the Government’s intention to be that they are referring specifically to the only two categories I identified in my opening of shares and certificates of deposits. It must be tied in to that. In fact, when I went and looked at Act No. 17 of 2011—which we can do now. We are not reinventing the wheel—which is the Act that was passed by the Government to allow it to do a similar bailout for the EFPA holders in Clico. You can see at section 3 there, Mr. Minister, that you tied it in to the STIP and you defined STIP. So you said:

- “(1) For the purpose of purchasing rights belonging to the holders of STIPS, the Minister is authorized to—
- (a) sign agreements on behalf of the Government; and
 - (b) make payments in any form whatsoever including the issue of bonds.
- (2) For the purpose of issuing bonds under subsection (1)(b), the Minister may in the first instance, issue twenty bonds—
- (a) of varying...”—et cetera, et cetera.

The point being that in that legislation you got it right. You tied it in to an express definition of what STIP, short-term investment products, means, and you had your EFPAs, your Executive Single Premium Annuities, Colonial Life Core Fund Series, amongst others. What we failed to do here in this Bill before us and we can amend it and encapture it, and more importantly ring-fence it, is we now need to add, respectively, at clause 4(1), the same type of ring-fencing that it is:

“...for the purpose of purchasing the rights, benefits, titles, estates or interests belonging to a shareholder or depositor...”

And we tie it in to “the shares or the certificates of deposits”. Because those are the only two instruments that exist in the Hindu Credit Union that we will be looking to take over. There is nothing else. So it is simple. It is shares and certificate of deposits. But as it reads now, a literal interpretation with a mischievous interpreter can say, “Well, we have empowered the Minister to make payments in any form whatsoever including the issue of bonds for the purpose of purchasing rights, benefits, titles, estates or interests belonging to a shareholder or depositor of HCU”. And what that means is, if I am a shareholder or a depositor, you can purchase from me, hon. Minister, “...any benefit...title, estate or interest...” that belongs to me. We have not pegged it to the Hindu Credit Union shares or certificates of deposits.

2.15 p.m.

Sen. Howai: Would that be understood?

Sen. S. Young: I think it is—it is certainly the intention of us here in this House and in the legislation, we understand that to be it, but I am just very cautious, and when I read it, and being an interpreter of legislation in another place, the courts, this is certainly open on a literal and plain-meaning interpretation of ordinary words to encapture any right, benefit, title, interest that belongs to any shareholder of HCU or depositor of HCU.

I think we need to just be cautious and it is just the addition of a couple of words, four or five words at maximum. We must make sure and expressly tie it in here, hon. Minister, in the way that you have done in your previous Act to deal with Clico, Act No. 17 of 2011. You tied in a very tight definition of “STIPS”, look at that and do the same thing here because it is only the shares and the certificates of deposits.

We do not want someone to come later on and say, well so and so, because we do not know who this will be handed over to. It is certainly not going to be the Minister himself doing these actions, and someone takes this interpretation now and goes and purchases the rights to the land of a depositor or a shareholder or some friend, et cetera, et cetera. It is very simple for us to just shut that door now, and not allow that horse to bolt. It may be, in your view, a fanciful or far-fetched horse, but I am telling you, in my respectful opinion, hon. Minister, the way it reads now on a plain, literal interpretation of the language, that would be permitted, such an instance.

So, it is a short Bill and with those literally few words, Mr. Vice-President, I would like to thank, once again, this honourable House for the opportunity to make a contribution, and one that I hope is worthwhile and one that would fall on fruitful ground. Thank you. [*Desk thumping*]

Sen. Dr. Rolph Balgobin: Thank you, Mr. Vice-President. I propose to be brief as I rise to make a short contribution, set of observations, on the Purchase of Certain Rights (HCU) Bill, 2014. It is clearly an important matter which needs to be addressed, and for those who may wish to reprise what has gone before, or at least to bring everybody up to current events, what I would say to this place and, by extension, to the population, by way of background, is that the Hindu Credit Union failed spectacularly in 2008, and along with Clico, helped to precipitate a local financial crisis in an economy that had weathered the global financial crisis very well.

The other thing that we need to recall is that the end for the Hindu Credit Union was acrimonious and loud. The President of the credit union protested his innocence vigorously. The third thing that we need to know about this case is that the breath-taking speed of the arrest of Allen Stanford was not mirrored here. And therefore, as a consequence, the fourth thing we need to know about this matter is that for this particular crisis, nobody is in jail.

Now, those are the four things I figure that you need to know about this case. The innocent, of course, have suffered. And it is useful that the Government has seen it fit to come now, with the appropriate effluxion of time, to address an issue that is specific to depositors who had more than \$75,000 deposited at the Hindu Credit Union.

Now, that is important because public sympathy, at the time, was not with large depositors, and so it is good that we have addressed some of the smaller ones and we are now turning our attention to this specific class of depositors. But, when I look at what is proposed, therefore, and which I support, there is the small aspect of the inconsistency with sections 4 and 5 of the Constitution. Now, what is it that drives this inconsistency? What drives it is the definition of “related party” and their exclusion from the bailout arrangements that we are seeking to put in here.

Now, that definition, I think, merits a closer look, and I would ask a question of the Minister, in a moment, about that. But I would like to be assured, even as we seek to grant such powers, that we have some idea, or some clarity as well, on what kind of haircut these depositors will be taking. I think that a bond does that and so, we will come back to that. But the public debate, when this thing occurred, was plain and that is that a great many citizens who did not invest in institutions like this end up having to bail out the people who did. Therefore, the question arises: to what extent should you get back all of your money when one of the reasons you went there was that you may have been chasing rates?

Now, you may or may not have been irresponsible. Whether or not you were, you were certainly responsible for how you invested your money, your investment decisions are your own. Now, there it gets, of course, quite complex because people say, well, we have a right to expect that this thing is properly regulated, that the board does its work, governance works and so on. Okay. But you have gone and you have sought a certain return, it did not work out. I think that the depositors are very fortunate that the Government has stepped in and sought to make good whatever sums they are owed and in fact, they are very lucky.

But, if we are excluding a particular bunch of people and we call these people by the defined term in the proposed legislation “related party”, and so what we are saying, we are saying, perhaps not explicitly, but certainly out loud, is that we are of the view that something went very wrong in the management of this place. So anybody who had any kind of governance involvement with this institution, you cannot get your money back, and so this legislation is clear on that particular point. And therefore, I would ask the Minister, just for my own satisfaction and peace of mind: are there any related parties—or sorry. Are there any people or organizations who would qualify as a “related party” if we extended the 12-month period prior to the closure in October 2008—October 10—back another year?

Sen. Small: Excellent question.

Sen. Dr. R. Balgobin: Are we sure we are satisfied—so if the Minister, and I am very happy to give way just to make sure that somebody is not waiting in the wings to skate through. No skating allowed. So we want to go in this, eyes wide open, so when we say a year, there must be a reason.

Now, my view is the governance failures that we observed in the Hindu Credit Union took more than a year to form and grow and be given life to, so I am very happy with an extension of this period of time. If this period of time is proposed, okay, fine, we can discuss it in committee, but I would like to know if there was anybody else who would be captured by this definition if we threw the timeline back, say a year or two.

Sen. Howai: You are saying a further year or—?

Sen. Dr. R. Balgobin: Yes, a further year.

Sen. Howai: Two years, so you would want it to go back to.

Sen. Dr. R. Balgobin: Well, I am just asking the question: would we capture in the definition of “related party” anyone—[*Interruption*]

Sen. Howai: We go to 2007.

Sen. Dr. R. Balgobin: Right, so I am saying 2006 or even 2005, because the governance failures as we know—I mean we are experienced in these things—they develop over time. We heard about land that is on your books but you do not own it; that takes time. Those things do not just happen and certainly does not happen in a rush. And so the farther back we can throw this, to my mind, the safer we will be because we are using public funds to bail out people, and the case for bailing them out is not entirely made, so we must be—[*Interruption*]

Sen. Howai: Also, Member—sorry—of course, we model this along the lines of what we had done with Clico. In a sense, we would have given Clico 12 and we will be asking to give HCU 24 prior to the time of the date on which the liquidation was determined. Or, in the case of Clico, it was not a liquidation but the date on which we had put them into section 44. So, I do not know if there is an issue of—*[Interruption]*—if we were discriminating so I will just raise that as a concern.

Sen. Dr. R. Balgobin: Well, yes, Mr. Vice-President, we are discriminating. We are saying that anybody related to this thing here, you have nothing to get, and I would prefer if we threw it back, so I am very happy for 24 months. But I would just like the peace of mind of knowing that even with 24 months that our definition does not barely miss somebody. I think we ought to know that and be very clear on that point even as we go forward.

The other matter that I would wish to raise has to do with clause 4. There are a couple of things in clause 4 that I would ask for some clarification on. As it is structured, clause 4(1) is extraordinarily broad. It says:

“The Minister may make payments in any form whatsoever including the”—use—
“of bonds...”

Well, the impression I got was that we were using bonds, and if we are just using bonds then we should say, the Minister may issue bonds for the purpose of purchasing the rights and so on, but “...in any form whatsoever...” raises a question for me, and it raises the question of haircut and timeliness. Because if I give you a bond, you have to take a haircut. If I give you cash now, I could give you the full amount that you are in for, so there is a timing issue. So if it is that our intention is to give bonds so that the person, if they want their money now, they have to cash it now and take a discount, then that is a different matter. So, I would be grateful for some clarification here on what else may be contemplated besides the issue of bonds for purchasing what is to be purchased.

2.30 p.m.

Then the second question I had really is, we do seem to be very broad, in terms of what we are issuing these bonds or making these payments in any form whatsoever for, because it says here:

“...rights, benefits, titles, estates or interests...”

That is fairly broad. And I would be cautious about such a wide definition. My guess, being a credit union, was that they would be restricted to shares. Sen. Young says certificates of deposit too. I do not know, but I know shares. So, are we leaving that too

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wide, or is there a reason for having it that wide open? I do not know, and I am asking the question just to ensure that we do not go off paying for things that we did not really intend to pay for.

You know, I would also say this: this is yet another example of a malfeasance of something that has been foisted on the population, that the people have to pay for. And once again we have to hear about the dominance of thugs in what is supposed to be a lawful society, as you go about trying to do your everyday business. There is nobody involved in this matter who is currently warming the insides of a confined space. There are, however, a number of the injured who have been buried or burnt, who have contributed to global warming by making the ultimate personal sacrifice.

Now, why is that so? Does that not strike us as being inverted in some way, when the innocent suffer and the guilty run free, roughshod and on papers, TV and everything else too, not hiding? I think Stanford had the sense to hide but these guys, you know. So, what does that say about us? Even as we take steps to remedy the wrong, in terms of restoring the injured in some way, shape or form, there ought to be the determination of culpability, in relation to the people who have perpetrated this terrible, terrible act.

This is 2014, this is six years. Six years this has happened. People have been denied their money, their savings. Six years! I mean, it is absolutely terrible! I accept the crosstalk points, because, prior to the stoppage of festivities, you could not get your money. Could you? And so something has to be fundamentally unfair with how we go about doing this. We restore the injured and we leave the guilty alone. I am not advocating an eye for an eye and a tooth for a tooth, you know, but I am saying in a lawful society we can conjure up as intelligent a set of solutions as we want, but the rule of law must extend to reach out and touch people who have broken the law, or who have robbed people, who have wilfully stolen.

And so, I am very happy that we have this and I presume, in the committee stage we can tighten it up or fix it or change it. We have one or two speakers to come. But, for me, I am looking for the tightening of the definition and the repair of 4(1), in relation to any payments whatsoever and what it is we are purchasing, and somewhere in the middle of all of that, it would be immensely important for me to hear what we are intending to do with the folks who have perpetrated this act that has hurt so very many people, injured a population and injured trust in the financial system which, of course, we always say we pride.

And so, Mr. Vice-President, I commend the Minister for not forgetting these injured folks and for moving us forward, in terms of healing their wounds, helping them. I am of the view that they should take a haircut and so I would be interested to hear a little bit more about that. Yes, something like Sen. Devant Maharaj's, I suppose. But, on top of that, aside from tightening the words, I would like also to see that we can reach out and touch the perpetrators. I feel they could use a touch and we should reach out and touch them, embrace them in a steel embrace, with bars, if possible. I thank you Mr. Vice-President. [*Desk thumping*]

The Minister of Food Production (Sen. The Hon. Devant Maharaj): Thank you, very much, Mr. Vice-President, for allowing me this opportunity to contribute in this historic debate, Purchase of Certain Rights (HCU) Bill, 2014. I would like to, firstly, commend the Minister of Finance and the Economy for bringing such a Bill here today. It is long overdue, Mr. Vice-President, that we address this hurt that existed and continues to exist among the policy and shareholders of the Hindu Credit Union.

Mr. Vice-President, Sen. Young, in his contribution mentioned that the first time we met in passing—even though we crossed the floor across in the Hall of Justice many times and walking on the streets in and out of his office on Duke Street—was at that AGM in 2008, where he saw the thuggery of the management of the Hindu Credit Union as they forced the abortion of an annual general meeting to account, by the Commissioner of Co-operatives, Mr. Charles Mitchell, I believe, to them as to the status of the credit union.

In his contribution, Sen. Young questioned about the 100 per cent bailout, saying that these persons—[*Interruption*]

Sen. Young: Over 75 per cent.

Sen. The Hon. D. Maharaj: Over 75 per cent—these persons were duped by higher interest rates, and so on, and they were enticed by that. And the Opposition in the other place and here expressed concern that the interested parties—and nobody seems to be calling their name but I would call their names—Harry Harnarine and his bunch of 40 thieves, that they do not get any part of these funds and their concern for the shareholders belies the fact of the history of the Hindu Credit Union and where it got to in 2008, and the focus of the debate seems to pivot around that 2008 date.

But the Hindu Credit Union is not a new organization to the landscape of the credit union movement. It began in 1985, on July 07, 1985, where an application for the registration was made on September 13, 1985 and registered on December 23, 1985. The President, at the time was attorney-at-law, Ramesh Persad-Maharaj, who still

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practises today. He is associated with the Dattatreya Mandir, the Hanuman Murti in Carapichaima and he is also connected with the Jai Lakshmi Home today. He and a group of individuals had 61 members and the bond for membership was the Hindu faith, and that is important.

All credit unions have to have a bond of membership. So you have the Muslim Credit Union, the bond of membership is the Muslim faith; the Catholic Credit Union, the bond of membership, the Catholic faith. There is the police and teachers. There is even a Red House credit union, where the bond of membership is association with the Red House and so on. Accompanying their application for membership was a feasibility study dated September 02, which indicated the credit union, and I quote:

...was born out of the need for the Hindus, articulated in the first instance by Messrs James Bhimsingh, Ramesh Persad-Maharaj and Bhal Ramdial, to look after some of the economic needs of the Hindu society with a particular reference to saving and investment and loans.

A questionnaire accompanied this application and their membership was very limited for 22 years, until the emergence of Harry Harnarine and his unique brand of management, which I do not think is taught in any school in Trinidad and Tobago. He was a man who was declared bankrupt before and he was allowed to manage and steer this credit union, and I think in any review of any Act or Bill that has to do with financial institutions in Trinidad and Tobago, if you have declared bankruptcy you should be debarred from participating at the management level.

Harry Harnarine, I met for the first time in 1996, May 30, at an Indian Arrival Day function at the Tunapuna Hindu School, accompanied by his mentor and guru and fellow disgraced financial personality of Lawrence Duprey, in which Lawrence ushered in Harry as the new bright rising star in Clico. He belonged to the Millionaire Club. Little did I know that it was millions of other people's money that they were taking. He belonged to the Millionaire Club and they were soliciting the endorsement of the Sanatan Dharma Maha Sabha, the largest Hindu organization in Trinidad and by extension the Caribbean, of which I am a member, leaving as assistant secretary general. We endorsed the Hindu Credit Union because, at that point, what was presented to us as the vision of the credit union fell into line with our vision for the Hindu community as a whole, and things proceeded quietly.

They solicited nominees to the Hindu Credit Union Board from the Maha Sabha. My name was proffered. They did not accept me. They found I was a little too controversial. I said no problem. This was in 1996. [*Crosstalk*] I had no objection to that. But, Mr. Vice-President, shortly afterwards, we started to get reports of questionable transactions and activities that were taking place in the Hindu Credit Union.

Our representative on the board at the time, Mr. Vijay Maraj, resigned because of what he could not tolerate as poor management practices, and in and about 2001, they sent us a donation for Indian Arrival Day, which we returned. We told them the days of indentureship, which we celebrate today, have ended and we returned their money to them. They made a donation to one of the schools, which later, we discovered, appeared as a loan on their books, and the then President General, Mr. Thirbhowan Seegobin, had to go to court in order to expunge that from their books, in order to get satisfaction. We, at that point in time, decided enough was enough, by 2002, that we no longer could allow them free access into our mandirs, of which we have close to 200, and our secondary and primary schools, which number around 60, in order to get membership, and so on.

I remember doing the press release for the Maha Sabha on that day and passing it by the secretary general and sending it out and on Tuesday, June 11, 2002—hear the day, June 11, 2002—this was the headline of the *Trinidad Express*:

War

Maha Sabha versus Hindu Credit Union

Finance Ministry probes HCU

Mr. Vice-President, the matter that arose in 2008 was not without a prior warning, and there were others before 2008. In this report here, and I quote here from the story by Joel Nanton and Curtis Rampersad. I think Curtis Rampersad is now an editor of the *Express*:

Junior Finance Minister, Conrad Enill confirmed that the Ministry had launched a probe into its affairs. Within hours, the country's largest Hindu organization, the Maha Sabha, issued a statement querying the HCU. Harry Harnarine declined several requests for interviews. Mr. Enill, at this point in time, indicated—Minister of Finance indicated—that a probe was ongoing.

Mr. Vice- President, I would have thought that was the proper thing to have done at the time. Mr. Enill and his counterpart, Lawrence Achong, Minister of Labour, indicated that there were probes ongoing. [*Interruption*] Miss Coudray seems to be familiar with Mr. Achong. Wednesday June 12, 2002:

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Balisier House besieged

PM: Enill says sorry

Achong reveals it is two HCU probes

So here it is, the PNM Prime Minister, Patrick Augustus Mervyn Manning, within minutes of a mob of thugs storming the Balisier, decided that all is well in the Hindu Credit Union. Where did then Prime Minister, Patrick Augustus Mervyn Manning engage in a forensic audit, request the advice of financial consultants, get reports or solicited the input of anyone in order to scuttle what many thought was the proper and correct move by the two Ministers, Enill and Achong, to launch a probe? That would be revealed later on, because the alliance between Harry Harnarine and the PNM and its leadership would emerge years later, down the road.

Sen. Young, I am coming back to his statement about 100 per cent bailout and these people were duped by interest rates. I think Sen. Dr. Balgobin hit the nail on the head, that when we deposit money in a bank, a credit union, an insurance company, we repose that the State has some kind of supervisory and regulatory control and input into what is going on. There is a financial ombudsman, and so on. We know that banks have to put a certain amount of deposits. So we have confidence, as citizens, that we could sleep comfortably at night, that our hard-earned money is safe in whatever institution we may put it in.

We assume that that investment is secure; we do not need to be unduly worried and when you have the State now, via its Prime Minister, saying very stridently that: "All is well. All is well. My Ministers have to back down." In fact, Prime Minister Manning first described Enill's statement as:

...unfortunate and saying there was no intention to cast aspersions on the credit union or its membership. The Commissioner of Co-operatives is responsible for supervising the credit union, and what is happening is part of the normal supervisory functions.

One minute later, then Minister of Finance, Conrad Enill, apologized to the credit union members. This is how he was humiliated:

If this is what it has caused then I do apologize. I never meant to cause any destruction. I am about building the credit union sector. So if this is what has occurred then I do apologize.

Hon. Senator: "Who say dat?"

Sen. The Hon. D. Maharaj: Conrad Enill was fumbling over himself, repeating his apology, “like if he get” a rap on his hand by his political master, the then Prime Minister. You have to go and apologize. This was in 2002, Sen. Young.

In 2008, we were getting doused in another place because of the failure to act here, and I question—I am sure that this must have been discussed by the Cabinet. This was on the Tuesday this happened, where they stormed Balisier House. Wednesday, the apology was forthcoming. I am not looking to Sen. Camille Robinson-Regis to explain what happened in Cabinet on that day, but I am sure, as a member of the then Cabinet, along with the now political leader, Keith Christopher Rowley, Leader of the Opposition—[*Interruption*] I have not heard their consternation in 2002, their objections, their chagrin of what transpired at Balisier House and their colleagues, Sen. Enill and Achong, being forced to eat crow and apologize to the likes of the least of all persons, Harry Harnarine. [*Desk thumping*]

Sen. Robinson-Regis: We discussed it at the Cabinet.

Sen. The Hon. D. Maharaj: I do not want to ask you to divulge Cabinet conversation.

Sen. Robinson-Regis: We cannot tell you what was said. [*Crosstalk*]

Sen. The Hon. D. Maharaj: I am being advised by Sen. Coudray that only Enill apologized.

Mr. Vice-President, there were a number of failed institutes at that point in time in 2002, institutions or entities under the credit union. There were a number of breaches that were taking place that were enough cause for concern. The establishment of a Visa card facility, we were told that the Commissioner of Credit Unions did not even require his permission to be given at this point in time, so they wanted to give credit.

I think in 2009, in the first Motion to bring the bailout for the Hindu Credit Union, the then Leader of the Opposition, Basdeo Panday, described it best when he said:

“...having failed to perform its supervisory function and investigative function over the HCU in time or at all, the Government created a legitimate expectation in the minds of the public that all was well with the HCU and, in so doing, they misled the depositors and shareholders to invest in the HCU, resulting in their eventual loss”.

The PNM government was grossly negligent in its statutory duty to protect the depositors and shareholders of the HCU and therein lies a legal, or at least a quasi-legal duty to bail out the HCU, or at least a moral duty at best. We notice the alacrity in which the PNM moved in to assist Clico, but the state of laissez-faire in which they treated the Hindu Credit Union.

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I would like to posit, Mr. Vice-President, that the reason why they were so lackadaisical responding is that they viewed the Hindu Credit Union membership as predominantly belonging to that of the opposition, the UNC, at the time. So if it is that the credit union were to suffer, it would mean that the membership of the Opposition at the time would suffer, but they were courting the leadership and courting their money and not their membership.

Sen. Robinson-Regis: Do not say that, do not say that.

Sen. The Hon. D. Maharaj: Mr. Vice-President, Sen. Robinson-Regis would want us to believe that the PNM was an innocent bystander to this train wreck that was happening over a period of 10 years. It was happening in slow motion and those who operated the levers and the apparatus of State chose to sit on their hands and do nothing, while thousands of persons suffered.

Mr. Vice-President, I hosted a talk show on Radio Jaagriti every day of the week where we had, under the banner of the Maha Sabha Strikes Back, persons from the Hindu Credit Union calling in, indicating their plights and trouble with the credit union. We had people come into the studio explaining the difficulties about the Hindu Credit Union.

Sen. Robinson-Regis: What did the Maha Sabha do?

Sen. The Hon. D. Maharaj: What you found—I would tell you what the Maha Sabha did just now. Relax, we have time. This was a very human thing. We had the elderly, the sick, the infirmed, crying on air for their money and the appeals for government intervention falling on deaf ears. We had the Credit Union League expressing their concern. The Credit Union League is regarded as the umbrella group for the credit union movement and they were largely in the dark about the activities of “Harry Credit Union”. I refuse to call it the Hindu Credit Union because he has tarnished the name Hindu, a religion which a significant part of the population belongs to. That was the “Harry Credit Union.” The Credit Union League said if, and I quote:

Anything were to happen to the HCU or any credit union it may have a ripple effect on the rest of the industry.

They said this on June 12, 2002.

Mr. Vice-President, I am not unsure if what happened with the Hindu Credit Union had a consequential impact on the Muslim Credit Union, who may also be in need of attention. The Maha Sabha called for a full investigation into the financial operations of the HCU. They issued a statement querying the use of members’ funds in its rescinding of its endorsement of the credit union. It observed, with deep concern, the rapid

expansion of the offices, property and businesses, and in 2002, I also wrote a column on it, where—questioning the credit union was the title—I stated that this expansion beyond its core business of credit union business, had to be cause for concern. The credit union was exploding, bursting at the seams with new enterprises. They had HCU Food, they set up a grocery; HCU Car Wash, they set up a car-wash business; and they were looking to go into security; Jovi’s Water Park. They were like an octopus with tentacles all over the country in everything, moving away from their business. But, it was a Ponzi scheme, essentially, taking money from one area.

But what also accompanied that was a sqandermania that knew no bounds, and I think it has been unparalleled, where persons were flying to Miami first class, going to strip clubs. I think the strip club that they preferred was called Gold Rush.

Sen. Robinson-Regis: “How you know?”

Sen. The Hon. D. Maharaj: Because they said it on air! We interviewed them.

Sen. Robinson-Regis: “And yuh sure?”

Sen. The Hon. D. Maharaj: We interviewed them. What they did, was they played on the emotive, religious sensibilities of the community to invest into this credit union. They engaged in the purchase of expensive vehicles and fleet. Now, these are some of the things that you may say they may be just wrong management judgment, but I would get into the area of fraud, which is where Sen. Young is pointing in that direction.

So, Mr. Vice-President, we had legitimate concerns as far back as 2002, and I want to repeat, coming from not one, not two, not three, but four entities—the Junior Minister of Finance, the Minister of Labour, the Maha Sabha and the Credit Union League. Yet still, the PNM, at the time, found that these calls, these appeals from stakeholders, as we call them now, were not warranted. And this is the same organization that now, on every opportunity, asks for stakeholder consultation. Here you had stakeholders crying out and they were ignoring it at the time, the very same persons. I wonder where Sen. Faris Al-Rawi was at the time.

3.00 p.m.

In fact, the then Prime Minister Manning, as an excuse for the actions and the statements of Sen. Enill and Minister Achong, said and I quote:

Not all of us are experienced in Government as some of us might be. We make mistakes from time to time. We are only human. It is a learning experience for us.

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So this is what Prime Minister—this is from the *Trinidad Guardian* in June 2002. So for their inaction or selecting to do nothing with the Hindu Credit Union, and apologizing to “Harry Credit Union” and his band of thugs who stormed Balisier House, he said we are a new Government, Enill and Achong talked out of time. When Finance Minister Enill backed down, he said:

If this is what it has caused then I do apologize. I never meant to cause any destruction.

Mr. Vice-President, after that fiasco in 2002, the Hindu Credit Union settled down because they had ridden the storm of getting the Government off their back, but, Mr. Vice-President, the story and saga as we all know with the Hindu Credit Union did not end there. The Hindu Credit Union went on to double its membership by offering these ludicrous interest rates. They abandoned their bond of membership as I mentioned in the introduction, as a *raison d'être* for the existence of the credit union among the Hindu fraternity, by taking the very extreme position that Hinduism recognizes all, a God in all. So, therefore, you could belong to any faith and be a Hindu essentially, a very catholic view of it. So, therefore, the Hindu Credit Union was open to everybody, that is the long and short of it.

So they opened the doors and you had a mushrooming of the membership and of the churn happening in the credit union because of this very liberal religious view. They opened offices, I think even in Tobago, and I am sure people in Tobago suffered as well with—[*Interruption*]

Sen. Young: Miami.

Sen. The Hon. D. Maharaj:—well, the Miami story is a different story there altogether. But as an experiment, Mr. Vice-President, what I did one day, I asked my secretary, I said, call the Henry Street branch and tell them you want a loan, because we were hearing rumours that you could get a loan over the phone, and I could not believe that, that a financial institution with any semblance of regulation or supervisory control or something like that, would do something like this.

Sen. Al-Rawi: When was that?

Sen. The Hon. D. Maharaj: This was in and around 2004. My secretary called the Hindu Credit Union, Henry Street branch, and spoke to a clerk there, and by the end of the conversation, she had a loan of \$50,000; over the phone! Over the phone! Getting a loan of \$50,000, no security. It was this sort of free-for-all free fall, which was happening in the Hindu Credit Union financial sector, that had to be cause for concern. The question was, where was the Commissioner of Co-operatives at all

material times during this occurrence? The Hindu Credit Union was supposed to have been supervised properly. It was supposed to have been regulated, there must have been officers assigned, but we were to discover afterwards that the then Commissioner, Mr. Keith Maharaj, was the schoolboy partner of Harry Harnarine in Rio Claro, and then he ended up driving some BMW SUV shortly afterwards. So the inference was clear.

The Hindu Credit Union, as I said, made a direct appeal to entice the former Caroni workers who just got their VSEP packages from the then Government, and they advertised a rate of 20 per cent in 2008. Sen. Al-Rawi reminded us yesterday about the global financial crisis happening in and around that time. So while the rest of the world was reeling from low financial rates, Harry and his financial wizards were conjuring 20 per cent interest here in Trinidad and Tobago.

Sen. Ramnarine: Warren Buffett of Chaguanas.

Sen. The Hon. D. Maharaj: And as you rightly said, Sen. Ramnarine, he was Warren Buffett of Alligator Trace, [*Laughter and desk thumping*] where he constructed a mansion, right? The street had a correct name, Alligator Trace, because they were getting “bite up down dey”. [*Laughter and crosstalk*]

The Hindu Credit Union set up a booth at Rienzi Complex in the All Trinidad Sugar and General Workers’ Trade Union to attract the former Caroni workers. That is to tell you the extent that they sought to get their VSEP packages. They advertised that these workers should invest in the Hindu Credit Union, and they had all sorts of PR stunts to entice them. When they did not get the kind of support from the All Trinidad Sugar and General Workers’ Trade Union, because of their advertising failure, they went to the PR department of the All Trinidad Sugar and General Workers’ Trade Union to protest that the workers were not coming on board and investing.

Mr. Vice-President, the stories that you hear for these—around this time it was heart-rending. And, in fact, looking at the investor, one could now reflect on the famous statement of the political philosopher Hobbes that a man’s:

“...life”—in a state of nature—“is solitary, poor, nasty, brutish and short”

That characterized the HCU investor’s financial career with that institution.

The Caroni workers, in fact, on August 10, 2008 said that they were robbed by the Hindu Credit Union. At that point in time the liquidator—but in 2002, what were the red flags? And you see, that is why I am really peeved at the then Government, because there were red flags, there were things to—hard evidence

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for their intervention, and why they did not intervene? I think somebody has to account. In 2002, the Hindu Credit Union we saw growing from three branches to 14. They moved from a cooperative society into a conglomerate. There were undisputed conflicting figures on the network of the Hindu Credit Union. At one point in time, Harry was saying it was worth \$1.2 billion, that was in 2007; by 2008 it was only valued at about \$800 million. The assets leaped from \$53 million to \$202 million from 2000 to 2001. So in 2000, it was \$53 million; by 2001, it was \$200 million.

The loans from the members jumped at an amazing figure of 239 per cent, from 32.55 million to 110.7 million, 239 per cent. They never indicated what part of those loans were profitable or not, or performing or not. In an *Express* report in and around the same time, investments went up from 3.37 million to 27.65 million, fixed assets moved from 10 million to 61.7 million. Now, I understand where some of this could come from, because as Sen. Howai indicated, they were claiming property that they never had any title to.

The interest rates alone should have caused the Commissioner of Credit Unions to go in there to find out how it is, what are they investing in to give them a return of 12 per cent or 20 per cent. What were they investing in? Where was the responsibility—and I have memos from the officers, eh. The public officers of the Cooperative Division of the Ministry of Labour did their jobs correctly, and I will quote their report. The Commissioner and the Minister failed the Hindu Credit Union depositors. In the *Business Express* of 2001, it stated:

The risky lending by the HCU is reflected in its 2001 financial statement, where provision for doubtful debts jumped from \$65,000 to \$1.15 million. At the time bad debts accounted for \$1.1 million of the HCU expenses in 2001, where in 2000 they had no bad debts.

Sen. Dhanayshar Mahabir, an economist, surely would appreciate that you must—“some kinda bell” and whistle must go off. You had no bad debts last year, but this year you have \$1.1 million in bad debts.

It was obvious, it was self-evident at the time the PR campaign of the HCU was costing millions of dollars. Anybody having any semblance of the cost of media would have an appreciation that the blitz that was happening on the national stage, in terms of media advertising, was costing the shareholders, because Harry Harnarine and his group of cronies were not spending this out of their own pockets.

You had the launching of a radio station called Radio Shakti at that point in time, which they leased in the first instance from, I believe it was Lord Superior, he had 94.5. It was housed with Gillette company's 102.1 and their group, Radio Vision it was called, that is the conglomerate, had the licence agreement for both 102 and 94.1, and Hindu Credit Union had leased the 94.5, and they launched Radio Shakti, because they saw that in order to—to use Sen. Balgobin's term “dupe more”, they needed a media arm to try and fool more people at a bigger level, because the word of mouth fooling was not yielding fast enough returns for them. So the credit union invested in a radio station to try and reach as many people as possible, and they did that.

Shortly thereafter, they approached Mohan Jaikaran to get another radio station, 101.1 and so on, for Masala and they approached him also to get the TV station of which it was reported \$17 million was paid in shares. They were only paying people in shares which probably in the end valued nothing, and ended up duping the people that they bought stuff from in the long run.

At the time in 2002—now hear this, Mr. Vice-President, at the time in 2002, the Ministry of Finance stated in a release:

The Ministry of Finance is currently fine-tuning proposal for legislation that would not only provide for the much-needed regulation of the credit union sector, but it would also equip the movement to operate more vibrantly and efficiently in the modern global financial market.

Conceived in the colonial era, credit unions are currently governed by a 1971 Co-operative Societies Act, which the key players in the sector agree is outdated. The Act provides for the supervision of credit unions. The Commissioner of Co-operatives in the Ministry of Labour, Keith Maharaj, has also been Commissioner since 1995.

So since 2002, the Ministry of Finance had recognized that there was a need to overhaul this colonial Act to govern credit unions. Ten years afterwards, the Ministry of Finance did nothing.

Sen. Robinson-Regis: And we have an Act?

Sen. The Hon. D. Maharaj: Well, we have an Act that they are working on right now, because when we came in there was nothing.

Sen. Robinson-Regis: In 2009 there was something, a policy paper.

Sen. The Hon. D. Maharaj: Well, you see, that is it, the PNM only talk. They put out paper and paper and paper, and no action. We are in the process now of addressing

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that, but I will leave that for the Minister of Finance and the Economy to deal with. We are dealing with the insurance and then we will deal with the credit union sector.

Sen. Robinson-Regis: You still have nothing.

3.15 p.m.

Sen. The Hon. D. Maharaj: The ironic part of this discussion and crosstalk, Mr. Vice-President, from 2002 to 2010, while the PNM was in office they did nothing. They developed a policy paper, but those on the other side will chastise us that for three years, the short time where we have to remedy a lot of their deficiencies—four years—[*Crosstalk*]

Mr. Vice-President: Senators, please allow Minister Maharaj to complete his contribution.

Sen. The Hon. D. Maharaj: Thank you very much, Mr. Vice-President, for your protection. They want us to remedy the defects of the PNM decade of debacle in the last three years. [*Desk thumping*] I want to fast-forward us into the audit of 2005 in the credit union and another audit which predated the 2008 collapse where a management audit was done by PricewaterhouseCoopers in 2005 and they found a further mushrooming of the inconsistencies already unearthed in 2002.

They had, for example, 62 cheques issued from January to December in 2004 for a grand total of \$27.935 million. A man who started out in HCU as a cleaner and messenger, but by 2004 the man was a contractor who had been hired by HCU to carry out projects worth tens of millions of dollars. Imagine, you came in as a fella sweeping the floor, two O levels and so on and a couple years later, you are a million-dollar contractor. There is nothing wrong with ambition and so on but, on further investigation, this man turned out to be one of the thugs that we spoke about earlier.

The report of Coopers also detailed that during the period under review, the contractor collected two cheques worth over \$1 million each; 11 valued over \$750,000; 34, \$250,000. I mean this was a credit union, what were they building so? Where was the commissioner? Why was he not investigating? Why was he not being concerned about the level of activities? We had this contractor being hired, T&T Contractors Association, to construct things in Orange Field, the HCU Food Corporation, printing press, a multipurpose hall, Jovi's Water Park. Close to \$28 million in payments were made for the first four projects here and the auditors found several discrepancies. The auditor also found that the contractor did not pay value added tax to the Board of Inland Revenue.

There are many other instances of financial irregularities which caused the auditor of Coopers to be concerned. There was no tendering process—well I guess as the private sector, there is no requirement, as Governments do, to get three quotes, but essentially they plucked this man out of nowhere, former cleaner as he was and said: “You do all this work.”

HCU issued payment for these things without completion certificates, so not only do you get the work without a tendering process, you are not bound to finish it, you are getting paid.

Letters for interim payments were made. It sounds familiar, Sen. Robinson-Regis says, and she is right because they were in office and they would have heard these cries and it was familiar to them. They chose to do nothing about it. Architect’s payment certificates were not prepared. Payments were not being supported by any sort of invoices and so on. [*Crosstalk*]

By 2008—[*Interruption*]

Mr. Vice-President: Sen. Al-Rawi, you came late and you are being the most disturbing.

Sen. Al-Rawi: All right, let me stay quiet.

Sen. The Hon. D. Maharaj: Mr. Vice-President, by 2008, even Lawrence Duprey, who once had Harry Harnarine as his blue-eyed boy, as his protégé, decided—he said he did not want to have anything to do with him by 2008.

On Thursday, August 07, 2008, the *Express* had a front page headline:

Why I dumped Harry

We looked at the transaction, we didn’t see a way to stop the leakage.

Every time—[*Interruption*]

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

Motion made: That the hon. Senator’s speaking time be extended by 15 minutes. [*Sen. S. Cudjoe*]

Question put and agreed to.

Sen. The Hon. D. Maharaj: I would like to thank the hon. Sen. Shamfa Cudjoe for her kind—[*Laughter*] “Doh geh between me and Shamfa.”

In 2008, the screaming headline is even Lawrence Duprey dumped Harry at that point in time.

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In a 2007 report to the Commissioner of Co-operatives signed by several public officers—so here it is public officers investigating the credit union, presenting a report and this is prior to the public collapse in 2008 where they unearthed a number of questionable activities.

- Board minutes for the meetings 2000 to 2006 reveal little details on important decisions being made;
- No permission was being sought from the Commissioner of Co-operatives for an investment by the HCU in relation to the formulation of a limited liability company called World Select Gem Limited, where a share capital of \$16.9 million was expended;
- Loan files at the head office were not updated with relevant documents;
- Persons becoming members by purchase of 25 shares and receiving loans of \$100,000.

I remember that. I am going through my notes here. You go in the credit union and you sign up, you are a member, put in \$25 and you walk out with \$100,000. What do you want better than that? That is what Harry presided over and this is in a report done by the public officers correctly reporting to their boss, the Commissioner of Credit Unions, Keith Maharaj, to take action, who would have then told his Minister, action to be taken. Nothing happened. It is only when Charles Mitchell became Commissioner of Co-operatives, then you had some movement.

- Members did not qualify for loans; loan officers were instructed to grant loans;
- Incomplete loan applications;
- Instruments of charge Mortgage Bill of Sale were not duly executed;
- Members did not qualify for loans;
- There were zero-rated loans to friends and family;
- Loans were granted to non-members.

In fact, there is a diplomat that met Harry at a cocktail party and he walked away with a loan for \$100,000.

Sen. Robinson-Regis: Right in the cocktail party?

Sen. The Hon. D. Maharaj: No, not in the cocktail party. Harry did not walk with that in his pocket. We went to the subsequent ambassador for that particular country to lodge our concern because the rumour was that citizenship was being arranged for Panama or Costa Rica or one of the countries that were being—*[Interruption]*

Hon. Senator: Costa Rica.

Sen. The Hon. D. Maharaj: Costa Rica—that was the country—because they did not have extradition with Trinidad. So they were planning that if they get “ketch”, they would run away there and they were safe.

I think last night we heard that if persons have information about criminal activities, they should go to the police or some relevant authority and it was said here by hon. Senators, one of the Senators, that, “Listen, we have privilege here”, and so on. But we also have a duty to do what is right. If we know it, let us not come in here and talk. Take action and this is what we did.

We wrote the Director of Public Prosecutions to intervene on this matter and, in a letter dated August 05, 2008 to then attorney Robin Montano:

“Dear Mr. Montano

Re: Hindu Credit Union.

Reference is made to your correspondence dated July 25, 2008 which was received on July 29, 2008.

Having reviewed the attached material, and while any criminal investigation would be assisted by a forensic audit, I am prepared to advise the police to commence their own investigation as there may be a threat of persons attempting to place themselves beyond the reach of local law enforcement officials.

By letter of even date, this matter has been submitted to the Fraud Squad. I shall revert to you in due course with the outcome of this investigation.”

So the DPP was alerted by private entreaty, Harry boasting that I “ain’t fraid jail; come and take meh.”

Again, Sen. Dr. Balgobin’s point falls that this man should be sleeping in a jail cell with somebody because there have been many instances of fraud. We have a situation where employees of the Hindu Credit Union were forced to make a deduction of \$100 every month to pay to the HCU Foundation—the HCU Foundation, which was supposed to be a charitable organization, which nobody seemed to have benefited from that charitable organization, except the PNM.

Harry Hamarine made a cheque payment of \$1 million to the PNM. In its 2007 campaign, then Prime Minister Patrick Augustus Mervyn Manning left the San Juan meeting and went to a house of Jamil Ali in Valsayn to have a meeting with the hierarchy of the Hindu Credit Union, promising them who will become Minister and who will become chairman of boards.

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There was a conspiracy, a nexus between the PNM leadership and the Hindu Credit Union leadership in exchange for funds and the fact that Sen. Al-Rawi may not know about it does not negate its truth. *[Interruption]* I do not know about that. I am telling you what I know about, right? There was an overt and naked attempt and, in fact, Harry boasted to his friends and colleagues, who then reported it on live media—and it has not been contested since—that he was to be made a Minister of Government; that he financed Karen Nunez-Tesheira’s campaign and this is all part of the public utterances of him. *[Interruption]*

If you “steupsing” there at my statements, these are not my words. You were silent when Harry was making them. When Harry was making these statements, nobody from the PNM was contesting them. That time they were hugging it up; “stick did break in dey ears then”.

Sen. Robinson-Regis: I was in Canada.

Sen. The Hon. D. Maharaj: You were in Canada at the time. Mr. Vice-President, the unholy alliance between the PNM and HCU has never been contradicted by the PNM. Of course, today they will say it now because we have the glare of the media on us and Harry is no longer fashionable to have as a friend and colleague. He no longer dons a black suit and is accompanied by an entourage of bodyguards with him. He is no longer able to finance them, so they have found it expedient to distance themselves and they have proven to be fair-weather friends. Now, for them, he is Dirty Harry. *[Desk thumping interruption]*

“Sure he was my friend first and ah leh go him; ah fire him one time, once I discovered what he was.” You kept him on indefinitely.

Sen. Robinson-Regis: Me, papa?

Sen. The Hon. D. Maharaj: When I say you, not personally I mean.

Mr. Vice-President, let me tell you how desperate the Hindu Credit Union and its leadership, Harry Harnarine and his cohorts, were. In 2008, as I mentioned before, we had this talk show where we were inviting the membership to come and express their concerns. I got a call one afternoon from an individual known to me, saying, “Listen I have just been approached by the Hindu Credit Union agents to take a hit out on your life and the life of the Secretary General of the Sanatan Dharma Maha Sabha.” I am not so minded because I know you all.

I am grateful forever that this person, I found favour in their mind, so that they not only refused the job, but they called me and warned me. We made an immediate complaint to the Commissioner of Police who subsequently informed us that there was indeed a threat to our person by the Hindu Credit Union.

3.30 p.m.

What I discovered again, subsequently, was that Harry paid the new hitman in shares the week before the Hindu Credit Union collapsed. [*Laughter*] Mr. President, that is the history that we have come from; that is where shareholders were in a predicament. What we are doing is to bring, finally, to the nation—to the shareholders and depositors of the Hindu Credit Union—some degree of justice; [*Desk thumping*] some degree of moral accounting to them by presenting this Bill that would provide some financial relief for the decade of suffering they had to endure by those who both managed the State and financial institution; by the State who turned a blind eye and by those who managed the institution who were prepared to exploit the vulnerable in our society.

We have taken a different approach, Mr. Vice-President. We have said in our manifesto campaign promise that we would deal with Clico; we would deal with the HCU issue, and we have dealt with Clico [*Desk thumping*] and we are now delivering on our promise to the HCU depositors and shareholders here today.

And, again, I commend the Minister of Finance and the Economy, the hon. Sen. Larry Howai, for bringing this Bill before us here today so we could bring some sort of relief. I know there have been many who may have passed away and many have died—shareholders and depositors—many who are still sick, ill and infirm, but now at least they will have the comfort and peace of mind of knowing that, finally, they have a Government that is listening and will continue to listen. [*Desk thumping*] We have a Government that is not insensitive, uncaring, as those that preceded us; that we have a Government that is not willing to turn a blind eye and only accept money on the side when it comes to campaign. With those few words, Mr. Vice-President, I thank you. [*Desk thumping*]

Sen. Faris-Al-Rawi: Thank you, Mr. Vice-President. Mr. Vice-President, two days back to back in this Senate doing the people's work, I am pleased to rise on—as the hon. Minister of Energy and Energy Affairs puts it, perhaps, it feels a bit like a test match, but the SRC, of course, does not consider that worthwhile so, perhaps, it does not count, because this is part-time work—24 hours straight. And, of course, there is no preparation for Bills like this. Magic happens and one walks into Parliament and just delivers a contribution on essential rights, privileges and issues required to be considered to make the law, Mr. Vice-President. So, if I may start with that.

Mr. Vice-President, I rise to contribute to the Purchase of Certain Right (HCU) Bill, 2014. The Minister of Finance and the Economy has been very hard at work, last couple of weeks, up and down the halls of both the House of Representatives and the Senate, in dealing with a number of issues which affect the financial structures, certainties and privileges of citizens of Trinidad and Tobago.

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But before I get into the meat of my contribution, Mr. Vice-President, if I may be permitted an opportunity to express sincere congratulations, warmest congratulations, to every one of the students that sat the SEA examination, all 18,000-plus of them. [*Desk thumping*]

[SEN. DR. ROLPH BALGOBIN *in the Chair*]

I wish to say, sincere congratulations as well, Mr. Presiding Officer—first time that I am addressing you as Presiding Officer, Mr. Presiding Officer. May I express sincere congratulations to the parents, to the teachers that guided and supported these students in their march to a life event, as SEA is, and may I also express my sincere congratulations to the persons at the Ministry of Education that worked tirelessly to produce the examination results on time in a well-measured system, incorporating the continuous assessment component.

And, if I may be permitted—this is a march towards election season, but one must give credit where credit is due—to give congratulations to the hon. Minister of Education himself [*Desk thumping*] who has been at the forefront of ensuring that issues that affect our children at the primary school level, in particular, are dealt with.

I am told that the percentage marker increase at the Ministry of Education this year has been significant. We have had a significant rise in the percentile averages of children sitting the examination, and I am very proud to say that three children distinguished themselves in our country in the placing in the examination at Grant Memorial Presbyterian School, my own alma mater; at the—I think it is the Hindu Vedic School, is it as well?

Sen. G. Singh: Avocat.

Sen. F. Al-Rawi: Avocat Vedic School and another San Fernando School—
[*Interruption*]

Sen. G. Singh: ASJA Primary.

Sen. F. Al-Rawi: ASJA Primary School, and I wish to extend to them and their families and their surrounding support members, a sincere congratulations. But, Mr. Presiding Officer, I wish to say to the students who had challenges in the examination that this is just one event in life, and that we often learn best from our failures or difficult circumstances, perhaps more than our own successes, and I want to give them the encouragement and support and love and kindness—everything that can be poured onto them—to tell them to keep persevering, Mr. Presiding Officer, on their march through life.

I am told that the hon. Leader of Government Business, Sen. Singh's son sat SEA as well, and did very well in his examinations. [*Desk thumping*] I am very pleased to extend that. My own daughter was blessed to achieve her first choice as well today, so I came with my heart in my mouth as well. [*Desk thumping*] So it has been a momentous day, Mr. Presiding Officer, if I may return to the Bill now. [*Laughter*] I think it important that we focus on positives when required. .

[MR. VICE-PRESIDENT *in the Chair*]

Mr. Presiding Officer as you depart and Mr. Vice-President as you return—[*Crosstalk*—the remark across the floor was that I need to take her for dinner tonight so I should hurry up. So, having allowed the Senate the pleasure of no contribution on my part in the last Bill, I think I may have to make up for it in this one, but anyway.

Mr. Vice-President, this Bill is an important Bill, and I must switch a gear right now. When we make law, we have to be careful that it can withstand scrutiny. When we make law, we have to make sure that the presumption of constitutionality survives any kind of test or form. We are seeking in this Bill—a very short Bill, Mr. Vice-President, only nine clauses—to do something which is critically important. We are seeking to allow the Government of Trinidad and Tobago to provide financial relief to a class of persons in our society who have been affected by a failure of a credit union, of a financial institution of sorts.

In seeking to do that, Mr. Vice-President, we are also specifically excluding a certain class of people from enjoying the benefits of that bailout. In other words then, Mr. Vice-President, we are specifically, as a Legislature, infringing upon the rights of persons to property; on the rights of persons to equality of treatment; and on the rights of persons to due process, one may argue, and the rule of law, one may argue, in framing this law.

I wish to state that it is for this purpose that I must now spend a little time to undo the tremendous danger, perhaps unwittingly done by my learned colleague, Sen. Devant Maharaj. Let me explain why. This law in causing prejudice to a certain class of persons who are being excluded from the benefit of the State's support and bailout will not find themselves in similar circumstances to other people similarly situated. And, as you are aware, Mr. Vice-President, the law is very specific and says people in similar circumstances—as I welcome the hon. Attorney General, because his input is critical—are required to be treated similarly. It is that section (a) right that requires us to exercise some caution.

Now, Sen. Maharaj—and I hope the hon. AG in his contribution will assist us in this—spent his entire debate dealing with this Bill as what he called the “Harry Credit Union”. He said, Mr. Vice-President, that we were dealing with a Ponzi scheme, octopus with tentacles, sqandermania, people on first class trips; people going to a strip club

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named Gold Rush. He said that we were dealing with a class of people and he, perhaps, I think unwittingly—I do not want to say that there was any intent on his part—sought to frame the entire Bill to exclude the directors and connected parties and, in particular, Harry Harinarine, et al, whom he called “Harry and his band of thieves—his 40 thieves”—from the operation of this Bill. Mr. Vice-President, the danger in that is that there may be an argument that we are dealing with ad hominem legislation.

We are in this Bill dealing with a cut-off marker of 2008; we are dealing with, in a sense, therefore, retroactivity in terms of rights to be affected. Sen. Balgobin has proposed two years as opposed to one, but insofar as this is, ex post facto; insofar as this is retroactive in reach; and insofar as Sen. Maharaj has unwittingly given the Government’s rationale, one could argue, for this Bill as being to deal with “Harry Harinarine”, it is incumbent upon the Opposition to set the record straight. [*Desk thumping*]

We must say, Mr. Vice-President, that we are concerned that we are satisfied that this Bill is not intended to run afoul of any provisions of the law, in particular as it relates to established constitutional principles of presumption of constitutionality, and of the limited function which a court should have in reviewing our purposes as a Parliament to make laws as unfettered as we ought to, that we are concerned that we are not, by legislating these measures, seeking to infringe in any manner the separation of powers of the courts as relates to the Legislature; that we are not seeking in any form or fashion to breach the rule of law; and that we are not seeking to fetter any due process considerations in the Constitution or, indeed, any legitimate expectation, and let me say why, Mr. Vice-President, for the record.

First of all, thanks to a well-thought-out amendment on the part of the House of Representatives, urged by the PNM, we wish to say that the use and operation of a three-fifths majority in this Parliament is a critical tool which we support. It brings to life the constitutional presumption that Parliament considered this in a full context. I wish to put on the record that we, as a Parliament, should not be fettered in our ability to make laws, and I wish to put on the record as well, that by virtue of a consideration of proportionality in a section 13 of the Constitution perspective, that I think that we are on safe ground. So, we are on safe ground, not only because of our three-fifths majority usage, but also importantly because we are seeking to deal with providing financial relief to an entity that can pay nothing at all to the victims of the collapse of the institution.

3.45 p.m.

Now, Mr. Vice-President, Sen. Maharaj spent a great deal of time trying to link the PNM, as he always does, to everything. Sen. Maharaj said that the PNM essentially was the recipient of financing and that nobody sought to distance themselves, from the PNM, to

that allegation. When asked in crosstalk if the UNC had received finance, he said, “Doh ask meh about dat, I doh know”. It is a very convenient argument on his part, but rather shallow in its perspective.

Sen. Maharaj sought to say—not sought to say—he said, in words to the effect, and forgive me if I get it wrong and I will give way for him to clarify if necessary, that the PNM sought to punish the members of the HCU because of their perceived political affiliations, and nothing could be further from the truth. [*Desk thumping*] Nothing could be further from the truth because our country’s financial systems and legislative proposals have been under review for far too long, from administration to administration, but Sen. Maharaj laid the path work for the destruction of his own argument by putting into the record that the HCU was established in 1984. How is it that this Government, time and time again, conveniently leaves out the fact that the NAR was in power and, in particular, that the UNC was in power?

If the United National Congress, Sen. Ganga Singh himself sitting as a Member of that, was in the saddle of Government in the period 1995 to 2001, how is it convenient to exculpate those persons entirely from the process and just affix blame to the PNM? I mean, we have got to do better than that, Mr. Vice-President. The argument just does not ring through. The argument is a shallow argument and we reject the argument. [*Desk thumping*]

Mr. Vice-President, we regret it as I see the face of my learned friend, the hon. Attorney General, because Sen. Maharaj sought to persuade the Parliament that the PNM has somehow affected Caroni workers in particular. We heard it yesterday in this Parliament. We have heard it umpteen times in this Parliament. [*Crosstalk*] Not from Sen. Maharaj, on previous occasions, but yesterday, that the PNM affected Caroni workers. The PNM shut down Caroni. Sen. Anand Singh—Anand Ramlogan—forgive me, I always tease the two. [*Interruption*] No. Anand Singh is a well-known lawyer and good friend.

Sen. Anand Ramlogan, the Attorney General of Trinidad and Tobago, is on record in the national domain, up and down Trinidad and Tobago as a COP candidate, the party card which he burned when he joined the UNC, criticizing Basdeo Panday, the “silver fox” himself, as being the man who presided over the collapse and failure of Caroni. As he put it, “aarti” and all. [*Desk thumping*] Anand Ramlogan, hon. Senator that he is, no less a character than the Attorney General of Trinidad and Tobago is on record up and down Trinidad and Tobago in elections of 2007 saying Basdeo Panday is the man to be blamed, and the UNC is to be blamed for the collapse of Caroni and causing all the negative consequences to the workers in Caroni. [*Interruption and laughter*] “Aarti” and all. “Aarti” and all.

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Mr. Vice-President, you know what is interesting?—Sen. Devant Maharaj ought to know that it is the UNC that signed the Cotonou Agreement as the predecessor of the EPA, which ensured that the protective market for the sale of sugar cane in this country died a death instantly. [*Desk thumping*] So they are playing smart with foolishness, and it is incumbent upon those of us who are students of history and take the time to read the *Hansard* of Trinidad and Tobago, for the years prior, to put them in their place and remind them of the truth and the facts in this country.

Mr. Vice-President, the hon. Sen. Maharaj also made some interesting observations about red flags in 2002. “Hard evidence existed. Disappointed in the Government.” He has memos to prove all kinds of things. He said red flags existed, you had loans jumping to 239 per cent. Mr. Vice-President, what shocked me about that, Sen. Maharaj is a Member of the Government of Trinidad and Tobago, a Minister, a Member of the Cabinet of Trinidad and Tobago. Red flags! Two hundred and how much per cent? Two hundred and thirty-nine per cent. “Evidence there, why the Government did not do something?” He is disappointed in the Government.

I would read from an article in the *Guardian* by Radhica Sookraj, June 12, 2014, talking about the Auditor General’s report and red flags:

“In the Ministry of Sport, expenditure moved from \$28.786 million in 2011 to \$395.884 million in 2012, a variance of \$367.098 million or a 1,275 per cent increase.”

So you have the Government staring down the barrel of the Auditor General’s report under section 116 of the Constitution, a 1,275 per cent increase staring them in the face and he says, “Well, de PNM, boy, yuh should know 239 per cent in loans, red flag. Go to de court.” This is the same Government yesterday in contributions in this House wants to say things like, “Yuh have evidence?” Do not use the privilege of Parliament given to you under section 55 of the Constitution, enshrined right to speak, to “parlay”, to speak for people who cannot protect themselves, to speak for people who are afraid of the system, and they tell you go to the court. But did you go to the court on HCU?

Hon. Senator: Yes. “Look my lawyer right there.”

Sen. F. Al-Rawi: Did you lay charge yourself as you say that the PNM should do?

Mr. Vice-President, I wanted to spend a moment to show the hypocrisy of this Government, [*Desk thumping*] the arrogance and hypocrisy of this Government. We have something in this Bill, having dealt with Sen. Maharaj, that we must look at. The first position is, I am concerned and I hope the hon. Attorney General can speak to this, that the Government has dealt with the issue of the potential claim that someone may

make, in challenging legislation as this, in relation to whether it runs afoul of ad hominem principles. Ad hominem principles, of course, is the terminology given to legislation specifically designed to affect a known person or the hominem. Hominem is referenced to the man, affecting the man.

There is a pejorative explanation that one can use in that term as well, but we are not looking at it in that sense. Whether there is a legislative plan, ex post facto in some circumstances, to secure a detriment or an effect upon a known class of individuals—that is the issue—does this law run afoul? I think that there is merit, having dealt with the constitutional parameters that I have set out, those five points earlier, there is constitutional merit in delimiting and narrowing, and keeping narrow, the class of beneficiaries and in excluding out connected parties as we do in the Bill. But I would want the hon. Attorney General to address the issue, squarely, so that we as a Parliament can rest assured that we are on the constitutional path, particularly in view of the contribution made by Sen. Maharaj, which takes us in the wrong direction, the absolutely wrong direction, in terms of a legal interpretation principle basis.

Gosh, Mr. Vice-President, sometimes I wonder if they go and check what it is they are really saying before they say it. Honestly, I honestly wonder about it. Anyway, let me not go down that road. Mr. Vice-President, I am concerned that, first of all, this Bill proposes that rights in section 4, Sen. Balgobin flagged it:

“The Minister may make payments in any form whatsoever including the issue of bonds for the purpose of purchasing the rights, benefits, titles, estates or interests belonging to a shareholder or depositor of HCU who is not a related party.

Now the Bill in a previous section sets out under the term “investment” that we are dealing with:

“(a) shares issued by HCU to its members; and.

(b) normal and special deposits made to HCU,”

What is interesting as well, Mr. Vice-President, I am just noticing, where is the definition of HCU prescribed, hon. Minister? Unless somebody could point it out to me:

“...issued by”—the—“HCU...

...special deposits”—by the—“HCU...

...bond...

...related party...”

Is it in the preamble?

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Well, first point, the Bill makes reference to an abbreviated term, HCU, which is—[*Interruption*]

Hon. Senator: It is in the preamble.

Sen. F. Al-Rawi: Yeah, but I do not know if the preamble can define it, per se. I wonder whether HCU as used in the abbreviation term in clause 3 needs to be included in the definition section, hon. Attorney General.

Sen. Maharaj: Senator, I believe they changed the name in and about 2006 to just HCU as opposed to an abbreviated form, because the credit union was then to morph into “human capital union” or something of the sort. So they wanted to move away from Hindu Credit Union.

Sen. F. Al-Rawi: Thank you, hon. Sen. Maharaj. If we may perhaps look at whether the preamble definition and crystallization of HCU as a term ought to be further expanded in the preamble or if it ought to be put into the definition section itself, I think that we should be precise in our terminology and not leave it to interpretation.

But what I am concerned, to put on the record, is that in purchasing the rights, benefits, titles, estates or interests, I am concerned to point out that the credit unions legislation, the Co-operative Societies Act, is something which prescribes the structure and content of how we actually deal with membership into these points. And what one is really doing is standing as a Member, and I do not believe that it can be at all possible that the Government can purchase the membership, per se, of the individual. So you may be able to purchase a thing, something capable of assignment even, but I do not believe it possible at all for the membership of the individual to be purchased.

Remember the Bill itself contemplates the use of, as it says under “investment” in the definition section, it contemplates shares issued by the HCU and deposits. I am not quite sure whether there may be circumstances including the membership aspect. So I would hope that the hon. Minister can clarify for us that whether it is the legislative intention or the operational structure, that it is the entitlements on liquidation as supported by the moneys which the Government will be giving in effecting this bailout that will be purchased. In other words then, will they become recipients first in law, and then is there an assignment of that thing which is being given? So I am a little bit concerned about what it is the Bill is saying can be purchased. I am a little concerned about that.

4.00 p.m.

I am also concerned, Mr. Vice-President, that in defining related parties as we have, I join hon. Senators in the concern as to the date in the definition of “related party” as prescribed, as October. It:

“means any person or entity who on October 10, 2008 and at any time during the twelve months immediately preceding October 10, 2008 was...”

And then a certain description is given of nexus or relationship either to the parent company, the HCU, or to affiliated or subsidiary entities or deemed connected party entities. I am concerned about where that date comes from, whether it is sufficient.

I wish to point out that in the FIA 2008, what we are really dealing with there is a 10-year ban when we are looking at fit and proper aspects. How much time was necessary? Has the class of persons been identified? Are we being precise and sensible in our election of the date? Hopefully, the Minister of Finance and the Economy would address that.

What also concerns me is that we are defining the concept of “Officer” in the legislation, using a capital “O” in this case. It is in the definition section. We define “Officer” in a very specific manner, and we say that it—“has the meaning assigned to it under section 2 of the Co-operative Societies Act.”. Then we use the term “officer”, for instance, in subclause (b) in the definition of “related party”, as meaning that assigned by virtue of the meaning ascribed in section 2 of the Financial Institutions Act, 2008.

I think that the reference in drafting terms should be to Chap. 79:02, as opposed to that particular Act No. 26 of 2008. But I am concerned that we have incongruous definitions for “officer” under the Co-operative Societies Act and “officer” under the FIA 2008 Act.

I am also concerned that under subclause (d) we are dealing with the definition again. There is a prescriptive definition including President, Vice-President, Secretary, et cetera, and it goes down, and it appears to be the language at the tail end of section 2 of the Co-operatives Societies Act itself. So I wondered if that, as the Minister of Finance and the Economy is, perhaps, distracted—

Sen. Howai: I am getting some legal advice.

Sen. F. Al-Rawi: Good, I just want you to pay attention to the definition aspects and whether there is a need to tighten up the definitions between the FIA section 2 definition of officer and the Co-operative and Credit Union Act definition in section 2, and in particular the manner in which we have used it in defining “related party” in subclause (d).

The next issue which concerned me was whether “majority shareholding” caught on to it, hon. Minister. Insofar as this was a financial entity, did we want to have significant shareholding affected or is it only majority? There is a difference between having a majority ownership in something and a significant or controlling share interest in something. I do not know what comprises the web or matrix of companies that we are seeking to deal with. I do not know which is more prudent in these circumstances; I am just unsure because I do not have the factual matrix.

If we look to “related party” section (f) again, we are looking at the elegance of the use of officer as capitalized with an “O”, and then the tail end added on to it in the definition of “Officer”, and I wonder if that suffices. Mr. Vice-President, I am interested by section 4, and I hope the hon. Minister will provide some elucidation to this. In section 4(2):

“In the performance of his power under subsection (1)”—and that is the right to issue bonds, except to related parties of this entity—“the Minister may”—
issue bonds”—subclause (b)—“referred to in subsection (1)—
of varying maturities from one to twenty years;”

But that structure is known to us by the Purchase of Certain Rights and Validation Bill for the Clico issue. But subclause (ii)—

“not exceeding in... aggregate four hundred million dollars...”.

I would humbly request the hon. Minister to spend some time telling us about the operation of the initial bonds to cover \$400 million, and then the fact that the Minister may issue additional bonds as specified by resolution after, in view of the fact that we have a \$700 million deficit, as the hon. Minister has told us. So the hole that we are filling is \$700 million deep. We are issuing bonds immediately, by way of authorization here, for \$400,000. But, hon. Minister, why if we know the size and quantum do we not permit in this legislation now—just a question—the full amount of \$700 million?

Sen. Howai: Part has been paid by cash, that is the amounts under \$75,000. So the difference is really the amount that we are paying by bonds, which picks up, but there have been some issues around the audit of the accounts and the exact number, and we did not want to tie ourselves down to the \$400 million and then have to come back to do an entire—so we are saying perhaps if it turned out to be slightly more than, and it would not be very much more, that we can then do it by way of the affirmative resolution which we have identified here.

Sen. F. Al-Rawi: Thank you, hon. Minister, that is tremendously helpful. By resolution of the House which is, therefore, to pick up the extra that we may not have catered for and again by affirmative resolution. That is helpful. I look forward only then in that context to whether there is a haircut structure inside of this particular point and if so how it will operate.

I also wondered, and perhaps the hon. Minister may be able to tell us, whether this was to be included in the NEL structure or some other entity for dealing with the trading in these bonds, per se—how the market will treat with these bonds. We understand the structure as it relates to the purchase of certain rights in the Clico structure, because they were going to be asset-backed bonds in the traditional sense, being whatever populated, apart from the statutory fund in the Clico instance, as carved out by the STIPs, the short-term investment products. But I wanted to know, insofar as that would have STIPs backing and also have asset backing, which would have been incorporated, be it the Republic Bank shares or other, what kind of backing these bonds had, other than by way of government guarantee. If it is just government guarantee, if the hon. Minister would put it on the record as well.

Then if it is only by way of government guarantee and they are bonds per se, are we looking, hon. Minister, in the varying maturities of one year to 20 years? Have we factored correctly whether we can use, for instance, backing other than by way of bonds, for instance Treasury notes, in this kind of structure, particularly if you have short-term products? So whether you wanted to include T-bills, T-notes as opposed to bonds only. [*Interruption*] Yes, it is bonds only. The definition prescribes bonds only without interest.

I am saying, for flexibility and for delivery of the product, particularly because the Government has been dealing with this situation for years—I mean, the newspaper articles in 2011, 2010; I do not want to rub salt in the wound, but it is as bad as the allegations you made of the PNM. We in the PNM understand that things take time and you have to get it right. [*Desk thumping*] We as an Opposition will not be irresponsible the way the UNC was in Opposition, and just complained ad nauseam, but the point is: Do you want to carve out any kind of space for yourself in looking at the issue of the confinement of the product, by way of bonds only without interest, or did you want to include T-bills and T-notes as well? I am just asking the question.

Sen. Howai: No.

Sen. F. Al-Rawi: Hon. Minister, we are amending the Securities Act, 2012, we are seeking to deal with self-regulated institutions being obliged to register their product prior to distribution. I see that we are making an exception to that fact in clause 6 of the

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Bill. I have taken a look at the amended Act, which I have worked on with you in the committee stage, and I am satisfied that section 62 as will be amended still covers the ambit. I just wanted to put that on the record.

Hon. Minister, as I wind up, I wish to end on a very important point. Mr. Vice-President, the Bill has a discretionary factor provided to the Minister. “The Minister may” in clause 7, “the Minister may” in clause 4, “The Minister may” have certain powers in clause 9, and discretionary factors to the Minister is a critical function. Governments must be permitted the scope to allow Ministers to do certain things.

It is on that operationality and the discretion of Ministers that I want to caution on a very important issue by way of example. So in affecting the discretion in this Bill, as operated in clause 4, clause 6 and clause 9, with the discretion of the Minister, I want to point the Government to the need to have careful sight via this Minister of Minister’s prerogative and powers.

For instance, by way of example, so that the listening public—through you, Mr. Vice-President—can understand, we do not want to see a situation such as the Minister of Labour and Small and Micro Enterprise Development having the absolute discretion to deal with the request to the Industrial Court to protect the essential services of Trinidad and Tobago Civil Aviation Authority, and not doing it. Let me give you an example on that point to further elucidate.

You would be aware that the Caribbean Airlines pilots went on a strike. Trinidad and Tobago is being affected. CAL has lost \$1 billion already; board changed. We are dealing with a serious situation: people in airports, flights cancelled everywhere, a threat by the PSA that they are going to shut down the airport on Friday. [*Crosstalk*] I am giving the elucidation. [*Laughter*]

In the Industrial Relations Act, we know that it is an essential service section, but I was very concerned—and I am sure the Leader of Government Business would be interested in this—to see a gentleman by the name of Gerard Pinard. Let me remind you who he is. He is the person negotiating—[*Interruption*]

Sen. Maharaj: Mr. Vice-President, I want to know what is the relevance, 35(1)—

Sen. F. Al-Rawi: No, no; hon. Minister I will point it out now. Mr. Vice-President, I will raise it now.

Sen. Maharaj:—otherwise he appears to be irrelevant.

Sen. F. Al-Rawi: No, you would be very interested and grateful for this one; and it is no “pound” on the Government, “so doh geh anxious”. Mr. Gerard Pinard is the person associated with the industrial action—unlawful industrial action—in a strike at the airport. You know when I checked the name, I was very surprised to learn that he is the same man sitting at the SRC for over 20 years—20 years. And, Mr. Vice-President, do you know what happened? I heard the replay on television last night saying, “We have to take action. De pilots waiting too long;” as an industrial relations consultant as he is. [*Crosstalk*] “Dey been waiting months—months to deal with their salary issues, months, three months.”

This is the same man sitting in the SRC for 20 years, staring down the barrel of bipartisan approaches from the Parliament, for 15 years being the same member of the SRC that recommended that you take away entitlements of judges and parliamentarians and affect them negatively, by removing their motor vehicle allowances, without their consent or any consultation to them. And that man has the temerity—temerity—to stand up on national television to encourage a strike action, affecting and shutting down Trinidad and Tobago, affecting our pockets, taking CAL, which is nearly “bus”, to further “bus”—because dey “bus” by \$1 billion—taking them to “bus” status, and saying the consultation of three months—if there was a consultation—is too long?

Mr. Vice-President, I want to encourage the Government of Trinidad and Tobago to put Mr. Pinard in his place. I want the Government of Trinidad and Tobago and the Minister of Labour and Small and Micro Enterprise Development to tell us whether there has been consultation in respect to a dispute, whether it has been a dispute reported to the Minister of Labour and Small and Micro Enterprise Development, where that dispute lies in terms of conciliation prescribed under the laws of Trinidad and Tobago and whether that industrial action taken by them is lawful or not.

I cannot accept, and I want the highest power that appoints this man to understand—His Excellency the President, not calling his name in the debate, but I just hope he is listening—that you cannot have somebody contradicting positions, as openly as Mr. Pinard is doing, affecting the rights of citizens of Trinidad and Tobago, prescribing that 15 years’ consultation is too little for judges of this country and parliamentarians, and saying that three months’ consultation—if there is even a consultation going on, because we do not know—is too long, and shutting down this country, which hopes to diversify itself by tourism growing, and putting us at the mercy of an unlawful industrial action. I am very upset by it. [*Desk thumping*] I could not believe that this was the same man, sitting on the SRC, acting one way and doing another way. That is not acceptable.

4.15 p.m.

And I call upon the Government of Trinidad and Tobago to deal with this situation to assure families—SEA results came out today, hopefully the hon. Leader of Government Business wants to, as I want to, take my child on a little event, visit somewhere; go to Tobago.

Sen. G. Singh: Well let us end this session early. [*Laughter*]

Sen. F. Al-Rawi: And, Mr. Vice-President, I am concerned that the citizens of this country are not put out of their hard-earned money by unlawful industrial action. And I hope, putting the points together now for Sen. Maharaj, on ministerial discretion, that the Minister of Labour and Small and Micro Enterprise Development will exercise his discretion to deal with this unlawful industrial action as it relates to the pilots that are sabotaging this country, Mr. Vice-President. I thank you for the opportunity to speak today. [*Desk thumping*]

Hon. Senator: It should have SEA every day. [*Laughter*]

Sen. Anthony Vieira: Thank you, Mr. Vice-President. [*Desk thumping*] Thank you all. I see it is 4.16 p.m. and I think that we break for tea at 4.30 p.m., but I believe I can say what I have to say within this time. [*Desk thumping*]

Mr. Vice-President, people are lucky in Trinidad and Tobago. They are lucky to be able to recover their precious life savings where anywhere else in the world they would have lost their money. [*Desk thumping*] I am very happy to support this legislation because it offers a lifeline to those who, through no fault of their own, find themselves in hard-pressed circumstances. Here I am mindful that we are not talking about sophisticated investors, but ordinary, hard-working, simple people. This, the collapse of the HCU, the Clico debacle and the global financial crisis have made many people lose confidence in the whole idea of saving. In a realm where hard-nosed profits and the bottom line is the order of the day, this act of enlightened benevolence, I think, will give fresh hope to those who are minded to save. [*Desk thumping*]

In looking at the wider picture, the failure of the HCU highlights the weaknesses of the current credit union system, and I am very happy to hear that measures to better regulate this sector are in train. I will give my full support to those measures when they come.

What has happened in the HCU must not be allowed to ever happen again. [*Desk thumping*] I only have two suggestions with respect to the Bill. I take my cue from Sen. Al-Rawi, I think, that at clause 3, where it says,

‘Bye-Laws’ means the bye-laws of the HCU,...

I would there put “formerly known as the Hindu Credit Union Co-operative Society Limited”. And then you just say, “...having registration number...”—blah, blah, blah.

The second suggestion is that the Bill is silent as to what would happen regarding any moneys that may be recovered. Now, I heard the Minister of Finance and the Economy say that the prospects for recovery are almost nil, but you know, people will tell you it is better to have than to want. So, bearing in mind the possibility that you might be able to recover something, I think there should be a clause in the Bill saying that the liquidator or the commissioner would repay any amounts recovered back into the Consolidated Fund because you want to replenish the fund, the source from which the payments are coming.

Now, I know that there are those who do not agree with the idea of bailouts, there are those who feel that investors who lose their money should stand their bounce, but I feel that if we can bail out the powerful, we must certainly assist those who lose hard-earned savings. [*Desk thumping*] All right? Not helping the HCU depositors and shareholders would have been disproportionate and unfair.

Hon. Senator: Very much so.

Sen. A. Vieira: Right? By helping them I believe that we are also, at the same time, strengthening our economy. So I commend the Government, I commend the Minister for taking this initiative. And with those few words, I thank you. [*Desk thumping*]

Mr. Vice-President: Hon. Senators, the time now is 4.21 p.m. and I intend to take the break. So we will resume at five o’clock. The sitting has been suspended.

4.21 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Mr. Vice-President: Hon. Senators, the sitting has reconvened. When we broke for tea we were debating the Bill on the HCU, therefore, the debate continues. The Attorney General. [*Desk thumping*]

The Attorney General (Sen. The Hon. Anand Ramlogan SC): Thank you very much, Mr. Vice-President. This Bill, though narrow in scope, deals with a matter of great social and economic importance for many in our society who as Sen. Vieira rightly pointed out, come from the lower end and lower rungs of the socio-economic ladder in our society. In fact, the credit union movement as a whole is one that was born out of a desire to supplement and complement the traditional banking sector’s approach to financing of social activities on the part of persons.

The World Council of Credit Unions puts it this way in terms of the distinctive and unique role credit unions were meant to play in a society. And it says:

“Credit unions, called by various names around the world, are member-owned,... financial cooperatives that provide savings, credit and other financial services to their members. Credit union membership is based on a common bond, a linkage shared by savers and borrowers who belong to a specific community, organization, religion or place of employment.”

It is for this reason the Trinidad and Tobago development of the credit union movement is one that we should take note of. In fact, Mr. Vice-President, in looking at this matter, the history of the credit union movement in Trinidad and Tobago, it gained its life and existence really through a solicitor by the name of Thomas Milne, who is widely regarded and respected as the founder of the credit union movement, not only in this country, but regionally. And that was in fact, introduced just after World War 1. He was the then Commissioner of Inland Revenue and his concept, idealistic as it was at the time, is one that has spawned the growth of the credit union movement that we now know as one that has economically liberated a people who were vulnerable and indigent and considered to be challenged in terms of accessing the traditional loan facilities in the commercial banks.

The Hindu Credit Union itself came into existence in 1985. And, Mr. Vice-President, it is common knowledge that it tried to harness persons who came from a particular religion, common socio-economic background, profession and also to look at areas in the country that were not able to gain the kind of ready access to finance in the traditional banking sector. In fact, the Hindu Credit Union’s existence and development is inextricably intertwined with the sociopolitical development of Trinidad and Tobago.

In fact, in 1985 when it was born, that in itself was a response to the fact that persons in our society felt that the surplus and excess from the oil boom was not trickling down to certain parts of the society, and it was in response to that feeling of alienation and marginalization that the Hindu Credit Union was formed to try and harness the resources of that community to organize it and mobilize it so that they could, in fact, better themselves through economic pursuits.

In fact, Mr. Vice-President, I can speak from personal experience in this matter. I recall when my parents had to put some of my elder brothers and sisters through school, when they went to the bank, the bank asked them for two things up front. By the time the air condition “hit yuh as yuh walk in the door, the bank asks yuh”—one, they would like to get a job letter, and two, they want security.

Now, oftentimes in Trinidad and Tobago the job letter is part of your income, and that was the case with my parents. My father had a job letter, but he would “plant garden”, and he would sell. My mother would make “pholourie” and “saheena” and so on, and she would sell. And that income, there is no way you could account for that income to the satisfaction of the commercial bank. So whether it is a public servant who would work a taxi after he goes home to be able to put his children through school or whatever supplemental form of income that is culturally the norm in Trinidad and Tobago, that for whatever reason was not, in fact, accepted by the traditional commercial banks. And that is in fact what spawned the growth, to a large measure, of the credit union movement.

Mr. Vice-President, in fact, the Hindu Credit Union when it was conceived originally came into existence with just over 600 shareholders and a capital base of roughly over \$4.5 million. And then in 1997 we saw the robust and vibrant and flamboyant taking off of the Hindu Credit Union with the introduction of a new president, Mr. Harry Harnarine. And one must understand the robust nature of the environment in which the Hindu Credit Union flourished. It came on the heels of the VSEP that was offered to the Caroni workers. And because that VSEP which was offered to Caroni workers, a large portion of whom came from the Hindu community, because that VSEP was offered, the Hindu Credit Union became a natural vehicle because they were already members of the credit union that they would invest in that credit union facility that was available to them.

Now in 2002, a most significant amendment took place to the by-laws, and that amendment was to amend the by-laws to open up the Hindu Credit Union, for the first time in its relatively short history, to non-Hindus in the country. So that you had the VSEP package in Caroni, and the natural vehicle of the Hindu Credit Union, and then you had the issue of the amendment to the by-laws to allow for non-Hindus to become members of the Hindu Credit Union, Mr. Vice-President.

By 2005, the credit union assets peaked at \$208 million with over 900 employees. And that, of course, from a mere \$4.5 million when it started off with 600 shareholders.

The exponential growth of the Hindu Credit Union at one time was thought to be a role model for development in the credit union sector. And I want to say this for the record. I think the Hindu Credit Union was born out of a socio-economic necessity on the heels of the oil boom, and as I said, being as it was, inextricably intertwined with the social and political development of the country, with a people and a community who felt alienated and marginalized from the spoils of the oil boom which were not trickling down to them. And it is against that backdrop that one must understand the Hindu Credit Union and why it flourished.

Now it was thought to be a role model at one point because it was really taking off—it had taken off and was doing quite well. And I wish to say for the record that I think the Hindu Credit Union served a very important social function in the society, and it helped many people.

5.10 p.m.

There were many persons who could not, in fact, get loans from the traditional banks because they did not have the job letter and the security that the commercial banks wanted and they were able to go to the Hindu Credit Union, and it was able to lend them money because it recognized the extra sources of income that is consistent with the kind of social culture we have in Trinidad, and that is whether you are planting land, whether you are working taxi, whether you are selling doubles in the night-time, any extra source of income which you earned was recognized and taken into account by the Hindu Credit Union, as a result of which loans were granted and poor people were able to help themselves when the commercial banking sector had turned its back on them.

That is the situation that lends itself into the other point. In the early years you would see that in the Hindu Credit Union the delinquency rate was actually very, very low. My father told me poor people more likely to pay you back than rich people—

Hon. Senator: True.

Sen. The Hon. A. Ramlogan SC:—and that has remained with me and it is, in fact, borne out in the statistics, because in the early years in the Hindu Credit Union, when it was developing and lending money to fulfil that social need—as with other credit unions—in fact, the delinquency rate was quite low.

So, many people benefited. The poor, in particular, who we are here to help today, they, in fact, repaid their loans and it was in the latter stages the mismanagement, coupled with the global meltdown that caused the Clico debacle, in tandem with so many other things, conspired really to lead to its downfall.

To illustrate the growth of the Hindu Credit Union, one has only to have regard to the fact that it eventually grew to some 28 subsidiaries, and if one just looks at the subsidiaries you would see that the lateral and horizontal integration attempt simply did not work. Just to give you an idea, Mr. Vice-President,

- On December 23, 1985 the Hindu Credit Union was registered;
- on April 6, 2000, Masala Radio 101 was incorporated;
- June 16, 2000, HCU Security Services was incorporated;

- June 23, one week later, HCU Home Furnishings;
- July 07, one month later, HCU Financial was incorporated;
- July 21, two weeks later, HCU Financial Company, United States of America, incorporated in Florida;
- on August 07, a month later, HCU World Travel;
- on September 06, HCU Foundation;
- on January 25, 2001, HCU AutoCare Limited;
- on March 12, 2001, Millennium Advertising Limited;
- on April 09, 2001, HCU Real Property Developers was incorporated;
- on January 01, 2002, Trans World Services was acquired;
- on January 25, 2002, a mere two weeks later, Sajeevan Medical Complex was incorporated as a nursing home;
- April 17, 2002, HCU Impressions and Printing Limited was incorporated;
- on June 03, 2002, 2002 Janitorial Services Company Limited;
- June 14, 2002, HCU Securities—another arm—June 25, 2002, HCU Communications;
- August 12, 2002, HCU Food Corporation;
- August 14, 2002, HCU Publications—I believe that was the newspaper;
- March 29, 2004, HCU Financial Insurance and Investment Agency;
- April 01, 2003, HCU Electronic and Surveillance Company Limited;
- March 28, 2003, HCU Auto Rentals and HCU Real Estate Limited;
- September 01, 2003, HCU Trust and Asset Management Company;
- August 20, 2004, HCU Institute for Higher Learning Education Company;
- December 04, 2003, Global Television Production Company Limited;
- January 02, 2005, HCU Jovi Island Park;
- January 24, 2005, World Select Gem Limited;
- February 01, 2005, Jessie's Court Limited.

—and the list goes on.

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So, whether it was home furnishing, security, communications, newspaper, higher learning education, you know, across the board it had just simply spread itself too thin, and that would have been fairly self-evident, having regard to the kind of risk management that will be required for any financial institution. Then came the same mistake that one saw with the Clico situation, which is, heavy investment in real estate by a financial institution that was ill-equipped to evaluate the worth of the real estate and then, of course, you had problems with respect to due diligence.

So, you had lands in Tacarigua, it acquired 67 per cent shareholding in Bankers Insurance, they purchased the infamous twin towers in Chaguanas from the Chaguanas Administrative Complex, and, of course, lands galore, all over the place. And you heard from the hon. Minister of Finance and the Economy, in one case there was no title to the land. So, there were problems with good corporate governance and compliance, due diligence was not done in all the cases, and you also had an issue with respect to the commercial judgment and decision-making process in terms of the acquisition of real property by the Hindu Credit Union itself.

Now, in terms of how this manifested itself as a distress sign in the company's balance sheet and profit and loss accounts, you would see that on September 30, 2004, the loan portfolio stood at \$434 million, and then the delinquency rate was \$82,997,8989. The problem with that statistic, of course, is that a 10 per cent contingency is what they had to cater for the delinquency rate, and that came about because they were lending money not only to the poor man all of a sudden, but they were lending money to the rich and famous. So, that had a reverse multiplier effect on the business and the financial health of the Hindu Credit Union.

Now, I think Sen. Vieira made the point that we should be proud and happy to live in a country where the Government would step in to give some relief to people. Because in many countries in the world you could—look at the BCCI scandal and you can look at so many others, the State says, “Well, you know, ah sorry but, tough luck.” *[Interruption]* You have the Enron disaster as well. So, we are very fortunate to be living in a country where we have this kind of compassionate approach to governance. But Sen. Vieira made another telling point, and that is, one has to take it in the context of the poor people who are the most socially vulnerable, who access these facilities through the credit union.

I want to take it one step further and put it in a different context and say, it is also the poor man who belongs to an institution that, in itself, was subject to a regulatory framework put in place by the State to protect the very poor man. That is the point. The reason we are here today as a Government to stand proudly and tall, to bring this relief to the credit union depositors and shareholders is because we accept, as a Government, that there was a regulatory framework put in place by the State and that regulatory framework, clearly, somewhere, something went wrong because it fell down. *[Desk thumping]*

And to illustrate the point, Mr. Vice-President, in 1998, a report done for the office of the Commissioner of Co-operatives said this, and I quote:

Threats, abuse and false accusations were levelled at the co-operative officers in the lawful execution of their duties. Every attempt to supervise this Hindu Credit Union is met with hostility and legal interventions. Officers are prevented from entering and examining the records of the Hindu Credit Union. This credit union has enormous potential for growth, but is stifled by individuals who assumed power, bringing with them their own agendas, expectations and ideologies which are inimical to the proper development of a sound financial institution.

It is anticipated that the enquiry would reveal areas of abuse of power and illegal activities which can form the basis for the Commissioner of Co-operatives to intervene and take necessary actions.

Needless to say, after that report you had the famous or infamous picture, which, I think, my colleague Sen. Maharaj held up to show that Mr. Harinarine had procured a meeting with the then Prime Minister and so on, and basically bullied his way out of this situation.

Now, I make this point for two reasons. When we pass legislation here, sometimes outside, people criticize us and they say, “in the rat-race culture of certification that has taken hold in our society, we feed into the nodes of it in the Parliament, because we pass legislation and we put qualifications for people”. And this is a classic case of why it is necessary to do that sometimes, because when this credit union crossed \$100 million, one would have thought that it required someone at the helm who had a certain level of qualification and experience, at the top, to be able to assume the risk management that was required for what was not just a burgeoning—but actually, a conglomerate. It had become a conglomerate, and Mr. Harinarine with all good intentions, the fact remains, perhaps he needed the kind of help that he did not wish to bring on board. But that is why when we pass legislation we put qualifications for people to protect the public.

The other point is this, when we pass legislation to empower people to enter, to inspect books and so on, it is imperative and important that those persons who are entrusted with that authority and the institutions understand the importance of their role, and they must not be so quick and gun-shy as the Commissioner of Co-operatives was, clearly, in dealing with the Hindu Credit Union.

You know, Mr. Vice-President, you had loans being given to members of the board, members of executive management. You had issues with respect to expenses on credit cards that ran into over \$1 million and, of course, you had issues pertaining to relatives, spouse and matters of the kind, you know, who were benefiting from the credit union under very questionable circumstances.

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Now, all of this was what the Commissioner of Co-operatives, under his powers in the Co-operative Societies Act, should have picked up and should have dealt with. The law, in my respectful view, I do not think the law was defective, I think as with so many instances in our society, it was a question of enforcement of the law and the need to have a proper enforcement of the law on that, and that is where we fell down.

Now, I remember in my early years in practice—I want to put on the record—I had done some basic conveyancing work for the members of the Hindu Credit Union and for the credit union itself, but that was very short-lived and thereafter people started coming in droves to my office to say, “well look, they are trying to withdraw their money now and they cannot get it”, and it was really a heart-rending experience. In fact, Mr. Vice-President, there are many members of my own family who invested in the Hindu Credit Union. I myself did. I lost an uncle who was waiting on this money to have an operation and try as he might, he could not get it.

He died without getting his own hard-earned money from Caroni that he worked, for over 30 years as a labourer, to accumulate, and he could not get his own money and he died in misery and frustration and in utter depression. And that story is not unique to him, there are many others who have suffered a miserable death just like that.

Now, in 2002, Mr. Vice-President, the HCU was heavily involved in marketing, its membership had increased and its share capital and deposits had grown from \$4.5 million in 1997 to a whopping over half a billion—\$550 million in 2002, and that was the position that had been allowed to occur. In the same way as with the Clico matter, you had the Executive Flexible Premium Annuity product being approved and a licence being given to give it out.

So, the State has a role in the regulatory framework to protect the poor man from this kind of collapse, and it is because of that, born out of the recognition of that, we are here today to try and see if we could provide some relief to the obvious distress that is being experienced in our society. Now, many things contributed to the Hindu Credit Union’s downfall and not the least because there was, in fact, a political relationship with the credit union at the time, and that is borne out by the public utterances that have now become part of the public record. I think Sen. Maharaj alluded to some of them. But that is a fact that one cannot get away from.

5.25 p.m.

In fact, under the former administration, the CEO, Mr. Ravindra Bachan was, I think, a member of the Board of the Housing Development Corporation, and that is not a secret. I think it was the former hon. Minister of Finance, Karen Nunez-Tesheira who said, well look, you know, he was in fact a part of my campaign and she said, “yes, the Hindu Credit Union helped me with my campaign”. So that those things are matters of public record, and I say it because it highlights the danger, the danger zone when financial institutions step outside of their crease and venture into the political arena, because there must be—that is something we must always be very careful about.

In fact, [*Crosstalk*] well, I do not know about that, but what I—I will tell you what I do know about. What I do know about is this, I know about this headline “Kiss & Cash”. It is a headline in the *Trinidad Newsday* newspaper, and it is a headline with a story from October 23, 2012, and it is the then Minister of Finance, Karen Nunez-Tesheira. The story deals with her admission about the Hindu Credit Union having financed her campaign and the fact that its personnel were involved in supporting her. That is what I know about.

Sen. Maharaj: They know about the UNC but they do not know about the PNM.

Sen. The Hon. A. Ramlogan SC: Now, getting back to the number of opportunities for interventions in the credit union—[*Crosstalk*] Mr. Vice-President, [*Laughter*] from the most unlikely quarter, my learned friend Dr. Henry, but there are a number of opportunities that presented themselves for this debacle to be detected, monitored, supervised and solved. In fact, it was on October 30, 1998, the inspector from the credit union—commissioner’s office had complained that they were barred entry to enter and inspect the books and so on. That should have immediately resulted in legal action. I cannot understand how on earth the Commissioner of Co-operatives could have an inspector complaining that he is being prevented from performing his duty, to inspect the books of a credit union, and no legal action flows from it. I mean, Sen. Vieira said—and I know, so that is the first point.

Then you had on April 29, 2003, you had the Credit Union Supervisory Unit raising a red flag, and again, Mr. Harinarine publicly called for it to be aborted and raised issues with the political directorate that led to a meeting with the then Prime Minister. Then on April 21, 2005 the credit union writes to the commissioner, carbon-copied the Prime Minister saying that it takes strong

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objection to any intervention and any inspection of its books and so forth, and it went on like that. The summary I quoted about interventions being stopped by frequent legal actions, and matters of the like, is really one that will remain with us in Trinidad and Tobago to remember why we should not ignore attempts to block inspection of books of financial institutions.

Now, at its peak, over half a billion dollars, the problem was that out of that half a billion, \$300-plus million was invested in non-revenue-generating assets. The HCU had spread its wings too far and too wide and the wind had stopped blowing—the financial wind had stopped blowing. And therefore, it invested in properties, its fixed assets had increased by approximately \$100 million, but the problem is it was syphoning out money to fund the subsidiaries that were created, to which I had alluded earlier.

The member shares, fixed deposits and savings had decreased by \$187 million between 2004 to 2007, and of course, in the meantime you had revenue declining from other sources that they had anticipated a revenue inflow from. I mean, they then went into a large-scale corporate and social imaging. I mean, one of the things noted was that for the visit of late former President Nelson Mandela, they had spent large sums with former Minister Jack Warner for that visit, when it had absolutely nothing to do with the credit union's business, and there was no prior consultation with the membership.

Now, I am not here to beat up on the PNM to say well, they should have taken action and they did not take action, but I will simply say for the record that they should have taken action and they did not take action. But I want to say that when one looks at the history of the legislation in terms of the credit union movement that is where one has to fault, the Parliament of the country and the former Government.

Permit me, Mr. Vice-President, to take you through the meandering path of this legislation. On October 06, 2003, the then Prime Minister, Patrick Manning stated that the Green Paper amendments would be brought to Parliament with respect to a number of Acts to govern the financial sector, including credit unions. A year later on October 08, 2004, the hon. Prime Minister Manning informed the House of Representatives that the legislative agenda for the financial system in fiscal 2005 would include a modernization of legislation relating to credit unions. A proposal—I thought it was a very useful proposal—that the credit unions with an asset base of \$100 million or more would be brought under the supervision of the Central Bank. They said that was the proposal that they were looking at. That was in 2004. In 2005, Mr. Manning then said, he expected to bring credit union legislation under the regulation of the Central Bank before the end of 2006.

On September 07, 2010, [*sic*] in the House of Representatives, he reports that the upgrade of the legislation governing credit unions to bring it under the Central Bank is now carded for 2006. Three years passed. In 2006, former Minister of Finance, junior Minister, Christine Sahadeo stated that the Central Bank guidance was being sought and the legislation was being prepared. May 05, 2006, Opposition Member of Parliament, Gerald Yetming complained bitterly about the need for this legislation and Minister Conrad Enill said that it is almost complete.

On July 14, 2006, Mr. Winston Dookeran complained that the Financial Institutions Act was really a feeble and a poor response to the major challenge of financial regulation, and Mr. Enill responded by saying that the credit union legislation was well on the way and there was a discussion ongoing with the credit union sector and the Central Bank. On July 13, 2007 in the House of Representatives, the matter was raised again; no progress. In November 2007, Minister Karen Nunez-Tesheira was appointed Minister of Finance and she explained that the Government, in her view, had the necessary majority to pass legislation and she promised that it would be forthcoming by April 2011.

Mr. Vice-President, throughout its tenure, promises, promises, promises—PNM, promises never materialized—and we never had that legislation. When we assumed office, among the very first things we did was to appoint the Commission of Enquiry into the collapse of the Hindu Credit Union and Clico. And one of the terms of reference in that mandate, a specific item, was for the regulatory framework of the State to be strengthened and for the Commission of Enquiry to look at the question of the credit union legislation. And I am pleased to announce today, Mr. Vice-President, I am advised that the report into the Hindu Credit Union, the collapse of the Hindu Credit Union, that report has been completed and will in fact be submitted to His Excellency, the President of the Republic of Trinidad and Tobago in two weeks' time.

So that report when it comes, it will inform and influence the legislation because we would have had the benefit of a full-scale Commission of Enquiry with a real-life illustration and example that is practical and realistic, because we cannot make law in a vacuum, it is better to make law by reference to what actually took place.

Now, Sir Anthony Colman who chaired that enquiry is a distinguished commercial law jurist and is the Deputy Chief Justice of the Commercial Law Court in Dubai. That makes him one of the most internationally respected persons when it comes to the dealing with questions of financial fraud and the regulatory framework for financial institutions, and therefore the country stands to benefit in

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no small measure through that Commission of Enquiry when that report comes. So the Government is therefore proud to say that before the end of this year it is our hope that the legislation will be finalized and brought to the Parliament—on the credit union, to regulate the credit union sector.

Now, I think the—one must understand in this debate we must be true, to thine own self be true, and Trinidad and Tobago must be true to itself, Mr. Vice-President. There is no point sweeping things under the carpet. History does not change by virtue of pronouncements made today. History is what it is. It is what it was and it will always be. And, Mr. Vice-President, the issue of the unfair treatment of the Hindu Credit Union depositors as compared to the treatment of the Clico depositors is one that needs to be put on the table. Here you had Clico and the Hindu Credit Union, the credit union movement is for the poor man. Clico was going belly-up, a financial behemoth had failed and it was imploding from within. But the risk analysis would show that the structural problems replicated themselves in the Hindu Credit Union. In fact, Mr. Harinarine was in fact a one-time disciple of Mr. Lawrence Duprey. So the ideology and philosophy replicated itself. And that was the factual matrix that one had to contend with.

It is against that backdrop that one has to understand the feelings of hurt, and the feelings of humiliation, and the pain of the Hindu community that had to live with the painful experience of seeing a Government rush to bail out Clico but say or do precious little about the Hindu Credit Union when that was the poor man and Clico was the not-so-poor man. One has to understand it in its particular social and political context. Yes, there is a justification for bailing out Clico, that it posed a systemic risk. But when I listened to Sen. Vieira, the systemic risk was nowhere in his contribution, you know. What he focused on is the fact that these are the poorest people in our society who cannot get loans from the commercial banks, who will go to the credit unions, like the Hindu Credit Union, to access funds so that they can improve their standard and quality of living because they cannot get loans from the commercial banks, because they do not recognize sometimes anything except the job letter and the security.

And why did the Hindu Credit Union members feel that they were victims of discrimination? Why did they feel so? It is not simply because the Government had pumped money into Clico and refused to pump any money into the Hindu Credit Union. It was not simply that. It was born out of a deep-seated feeling of anxiety with respect to the political history in our country, whereby the Hindu community was always perceived as being anti-PNM. Let us face it.

I will not allow this matter to go without, for the public record, stating the facts. The feeling of hurt and the feelings of grievance of the community must be located in the proper social and political context. For 30 consecutive years, from 1956 to 1986, the PNM ruled this country without a single member from the Hindu community in its Cabinet.

Sen. Robinson-Regis: That is not true.

Sen. The Hon. A. Ramlogan SC: Mrs. Robinson-Regis said that is not true, if that is not true I will sit down and let her name, for 30 years, let her name the Hindus who were in the PNM Cabinet. I will sit down and give her a chance. [*Sen. Ramlogan SC takes his seat*]

Sen. Maharaj: She will give you the answer.

Sen. Robinson-Regis: “Ah checking.”

Sen. The Hon. A. Ramlogan SC: All right, thank you very much. I rest my case. And I want to say further, I want to say further, if the point was the reverse I would be making the same point here. If we had a Cabinet for 30 long consecutive years that had only Hindus in it and excluded the entire Christian and Muslim community that would have been equally wrong and I would be making the same point here.

5.40 p.m.

I fought for equality and against discrimination for 15 long years in the courts, and at a time when I entered the legal profession, there were only two cases for discrimination—[*Interruption*]

Sen. Cudjoe: Do not forget the Rastafarian movement.

Sen. The Hon. A. Ramlogan SC: L. J. Smith—I will come to that too, yes. And, yes, my learned friend, Sen. Cudjoe, reminds me I also fought for the rights of the Rastafarian movement; I fought for the rights of the disabled; I fought for the rights of women; I fought for the rights of children; I fought for the rights across the length and breadth of this country. So Sen. Cudjoe is right to remind me and I am grateful for the reminder. [*Desk thumping*]

In fact, I sued the judicial arm of the State on behalf of a man called George Daniel, the President of the disabled people’s organization, and you know why? Every time I entered the Hall of Justice and I ran up those flights of stairs, it always irked me that a man in a wheelchair—how is he going to get up to the court? And one day I actually had to pull an accident victim in a wheelchair,

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reverse him and pull him up those steps, and I say, “Wait nah, lawyer come, lawyer go, we running up dem steps every day and we didn’t spare a moment’s thought for the disabled in our country and this is the Hall of Justice”.

I went home that night and I drafted a constitutional Motion that everyone said was doomed to fail. I drafted a constitutional Motion to challenge the State for restricting the right of freedom of movement and for discrimination because it did not provide equal access to the Supreme Court of Justice for all citizens of this country. [*Desk thumping*] I won that case. And you are right about the Rastafarians.

When they were cutting off Rastafarians’ dreadlocks in the prisons and not giving them a vegetarian diet, it was to me they came and I sued the prison authorities and the State for discriminating against the Rastafarians in this country and won that case in the Court of Appeal. [*Desk thumping*] They did not go to Fitzgerald Hinds. They came to me. [*Laughter*] He was busy in his palatial mansion, in his palace at the time taking care of his manor.

Sen. Robinson-Regis: He was a Member of Parliament.

Sen. The Hon. A. Ramlogan SC: Yes, but as Sen. Young will tell you, being a Member of Parliament does not disentitle you from practising law in the courts. But the point I am making is that grievance in the community must be located in that. They felt hurt, they felt aggrieved and they were legitimately feeling so because they felt as if the Government of the day had turned their back on them, and they felt so because they did not have any representation in the Government, such that they could access it to plead their case.

We take for granted that the People’s Partnership is as diverse as it is, but I want to let you know that that is a conscious decision because it is very easy, subconsciously and unconsciously, to gravitate in your comfort zone. You feel more comfortable with the people you grow up going to church with. And in the same way you feel more comfortable with the people you grow up going to church with and you went to school with, it is the same for Hindu, Christian, Muslim, Orisha, Baptist, what have you. It is the same.

So when you excluded that community, how does the politics work? When you want to invite a Government Minister to a function in your church, your temple, your mosque, you have to have some connection, some social connection.

Sen. Robinson-Regis: Why?

Sen. The Hon. A. Ramlogan SC: And that social—because for 30 years we kept inviting the PNM and they never came.

Sen. Robinson-Regis: That is not true.

Sen. The Hon. A. Ramlogan SC: Mr. Patrick Manning never attended a single Divali or Indian Arrival Day celebration in this country. [*Desk thumping*] Not one. That is not true? You get a picture of Patrick Manning in a kurta and show me at an Indian Arrival Day celebration or in a Divali celebration.

Sen. Robinson-Regis: When Dr. Rowley wears his, you all chased him.

Sen. The Hon. A. Ramlogan SC: No, no, no, nobody chased him. [*Crosstalk*] Not at all. And I want to say further—[*Interruption*]

Mr. Vice-President: Attorney General! Senators, remember that we have Standing Order 39 and everybody here is familiar with it. While you might be a little emotional, but please tone it down. Allow the Attorney General to continue. Thank you.

Sen. The Hon. A. Ramlogan SC: I am grateful for your protection, Mr. Vice-President. You see, the point is, there is a social wrong that took place in this country with grave constitutional and social implications, consequences and repercussions. That is the point I am making and we must “to thine own self be true”, and that means as a country. I want you, as Atticus Finch said, in *To Kill a Mockingbird*, step into the shoes of the Hindus, walk around in it and see how it feels.

Today, I ask every single Senator in this Chamber: how would you have felt if, not for one, not for two, but for 30 long consecutive years there was not a single Minister in consecutive Cabinets of a Government in your country, not one from your community, how would you have felt? And when you walk around in those shoes, you will understand why the failure to intervene and assist the Hindu Credit Union had a deeper significance and meaning because of the hurt the community experienced. That is the point. [*Desk thumping*]

That brings us, Mr. Vice-President, to the instant legislation, and I want to—[*Interruption/crosstalk*]

Mr. Vice-President: Please, we are recording.

Sen. The Hon. A. Ramlogan SC: And I am reminded by—I know they are getting touchy on this—[*Interruption*]—but you see—sorry? No, no, no, I am speaking facts. Mr. Speaker, I want to tell—[*Interruption*]

Mr. Vice-President: Senators, please.

Sen. The Hon. A. Ramlogan SC:—Sen. Al-Rawi—oh, I am sorry. Sen. Al-Rawi is not here in the Chamber again, you see. Whenever I speak, he is not here.

Mr. Vice-President: Hon. Senators, the speaking time of the Attorney General has expired.

Motion made: That the hon. Senator's speaking time be extended by 15 minutes.
[Hon. G. Singh]

Question put and agreed to.

Sen. The Hon. A. Ramlogan SC: Anyway, I just want to say before I move on into the record—they say speak facts. Mr. Vice-President, it was in the Maha Sabha radio licence case that the judgment of the Privy Council found as a fact that the PNM Government did in fact discriminate against the Hindu community. That is a fact that is there for the record. If one reads the judgment one will see where Lord Mance said that the Government had gone to such an extent that it had twice misled the Court of Appeal in its own country to cover up the discrimination. So I say no more on that.

Now, we turn to the constitutionality of the Bill at hand. It requires a three-fifths majority which is just roughly about 19 Senators and, of course, the Constitution in section 13(2) does in fact permit for us to pass this legislation with a special majority of three-fifths. And in section 13(1):

“...unless—“it—“is shown not to be reasonably justifiable in a society”—with—“proper respect for the rights and freedoms of the individual.”—it will in fact be constitutionally valid.

And what is the test of reasonable justification? It was in the case of *Woods v Minister of Justice, Legal and Parliamentary Affairs* that the test said:

“What is reasonably justifiable in a democratic society is an elusive concept. It is one that defies precise definition by the Courts. There is no legal yardstick, save that the quality of reasonableness of the provision under attack is to be adjudged on whether it arbitrarily or excessively invades the enjoyment of the guaranteed right according to the standards of a society that has proper respect for the rights and freedoms of the individual.”

The hon. Chief Justice, in that case, indicated:

“... (i) the legislative objective”—must be—“sufficiently important to justify”—the limitation—“on the fundamental right; (ii) the measures”—that were—“designed to meet the legislative objective are rationally connected to it; (iii) and the means used to impair the right or freedom are no more than is necessary to accomplish the objective.”

Now, the first point is, Mr. Vice-President, did we need a special majority? I am of the view that we did not and I had so advised, however, a contrary view was espoused and out of an abundance of caution it was felt we should go for a constitutional majority.

For the record, the Chief Parliamentary Counsel, Mr. Ian McIntyre SC, had also shared that view, and for the record I thought that we would say that. I however sought legal advice on the matter because it is an important one, and Mr. Russell Martineau, a former Attorney General and a respected Member of the Inner Bar, in fact gave a legal opinion on this matter. Not only did he agree with my view that we did not need a special majority for this matter, but he also went on to answer three questions I posed, and the three questions were as follows:

1. Whether the amendments made by the Lower House to exempt certain categories of persons are constitutionally valid?

So whether the categorization is valid.

Hon. Senator: The related party.

Sen. The Hon. A. Ramlogan SC: Yes, the related party.

2. Is it necessary to have this amendment? Could the State not legally discriminate against those suspected of wrongdoing in the practical administration and implementation of the law?
3. Is the net of exemption cast too wide in that innocent family members could sue for discrimination, or is there ample justification in law for treating them differently, even though they may be similarly circumstanced?

Of course, the “related party”, we have tried to capture people who were in charge of the Hindu Credit Union, whether director, officers and so forth and their family and people who may be close to them—son, daughter, brother, sister, mother, father, spouse, cohabitant.

On the issue of the first question, Mr. Martineau states the following:

“I am of the opinion the amendments made by the Lower House to exempt certain categories of persons are constitutionally valid, especially since the Bill would be passed by a special majority. The Bill with the amendments is discriminatory. It is in conflict with section 4(b) and (d) of the Constitution. However, if...passed by the proposed special majority...it shall have effect and be valid, unless it is shown not to be reasonably justifiable in a society that has

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proper respect for the rights and freedoms of individual.... In my opinion it cannot be shown that this Bill is not reasonably justifiable in a society that has proper respect for the rights and freedoms of individuals...

In my opinion, the legislative objective of the Bill is to give relief to those who have innocently suffered loss by the failure of the HCU. I am of the opinion that the exemption provided by this amendment satisfies the"—relevant—"criteria"—in law.

“In any event for reasons given in my answer below to the second question I am of the opinion that even without the protection of the special majority the Bill may be constitutionally valid since the discrimination can be justified.”

That was my view.

“Notwithstanding this, however, I advise out of abundance of caution the Bill with the amendment should be passed with the...special majority.”

The second question.

“...because shareholders or depositors of HCU who are related parties are not true comparators of shareholders or depositors of”—the—“HCU who are not related parties”—then discrimination can be justified.

Perhaps I can just explain that point. In the law of discrimination, one needs to prove several things. You need to prove:

- (a) that you are similarly circumstanced;
- (b) that notwithstanding the fact you are similarly circumstanced, you were treated differently by the State; and
- (c) in some cases it used to be that you needed to prove a hostile or malevolent intention to actually discriminate.

That third requirement has now been removed by the decision of the Judicial Committee in the Privy Council in the Trinity Cross case. And now what you need to prove is that although you are similarly circumstanced, you have been treated differently by the State and there is no rational justification or explanation for it.

What Mr. Martineau said is that you have two categories of persons, but they are not similarly circumstanced. One set is persons who are related to persons who were in charge of the company—I will not use the term “wrongdoers”—and the other are persons who are ordinary innocent persons who invested. So that there is a huge evidential plank that separates both, and therefore, it is a rational distinction that is drawn.

On the third question he says:

“I am of the opinion that the net of exemption is not cast too wide. Innocent similarly circumstanced family members may only sue successfully not merely on the basis of discrimination but they must go further and show that the discrimination is not reasonably justifiable in a society that has proper respect for the rights and freedoms of the individual... This is a question of proportionality. The amendment has”—gone through—“a process of refinement”—and it is not a mere blanket amendment, but one that has some differentiation.

I next turn to the opinion I got from Sir Fenton Ramsahoye QC. Sir Fenton took a different slant but arrived at the same conclusion. And the slant he took is simply this: the Bill is not one that confers substantive rights on anyone.

5.55 p.m.

When we pass this law, it is not that any depositor has a right to sell their interest or beneficiary or benefit in the credit union to the State. “You doh have no right.” It is not that I am giving you, the member of the Hindu Credit Union, a right that you can enforce against the State to say, “Well, buy mines too”. That is not the case.

What we are doing here is allowing for the State, we are enabling and empowering and authorizing the State, the Government, to actually decide to purchase, in its discretion, the chosen action, benefit or interest of any of the shareholders of the Hindu Credit Union or depositors. So it confers no substantive right on the part of the shareholder but it simply is an enabling or facilitating legislative device that will allow for the State to make an offer. It is for that reason Sir Fenton concludes that in the absence of any legally binding agreement, there will be no cause of action that you can invoke to enforce your right, which does not exist in law, to sue the State, and that was his conclusion. He says:

“In my opinion the provisions which create a difference between persons described as related parties on one hand and other persons on the other is a distinction which Parliament is entitled to make in the administration of the legislation. The net is not too wide because it is in the discretion and power of Parliament to draw it.”—on a rational basis.

I turn next to the ad hominem man, Sen. Faris Al-Rawi, his two favourite Latin words. We did consider whether the legislation is ad hominem and the conclusion drawn is no, it is not. Ad hominem legislation, essentially, is legislation that would target someone. Laws are not meant to be made in personam, but rather laws are meant to be made for general application to govern social conduct in a society. In this, it

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is also ad hominem if it, in any way, injuncts or interferes with the due and proper administration of justice by trying to dictate or tell the judge how to decide a case or what should be the result.

You may recall the ad hominem argument was raised by my learned friend, Sen. Al-Rawi, during the repeal of section 34, and we had a lengthy exchange about it. But, of course, the Court of Appeal has now upheld the High Court judgment. I believe Sen. Prescott did as well raise it. And the High Court and the Court of Appeal have, in fact, agreed with the position I outlined in the Parliament that it is not in fact ad hominem because it is of general application and did not, in fact, target any specific individual.

It is for that reason that one of the officers in the Chief Parliamentary Counsel department, Mr. Ryan Awai, did a legal opinion with which I concur and he points out quite rightly that the legislation we are passing here does not target any specified individuals, it does not interfere with any pre-existing rights. It is a simple bailout through an offer by the Government and thus the question of legislative interference with the court's jurisdiction in a pending criminal matter or any other case does not arise for consideration, and there is no undermining of the decisional authority or independence of the judicial arm of the State, or the judicial branch, and there is no interference with judicial discretion.

There is no directive in this Bill to the court to tell it what it should do, how it should go about doing it. It simply does not arise. I mean, ergo, any impermissible interference by the Legislature with respect to directing the outcome of any current litigation simply does not arise. So the ad hominem issue, I think, really has been adequately dealt with but it really just simply does not arise.

With respect to my colleague, Sen. Young's point—[*Interruption*]

Mr. Vice-President: Attorney General, you have about three minutes again.

Sen. The Hon. A. Ramlogan SC: Yes, Sir, that is more than adequate.

With Sen. Young's point, he made the point about the rights, benefits, titles, estates or interests of the shareholders or depositors being too wide. If you take it in a vacuum, one can mount that argument, but I do not think it is viable for the simple reason that legislation must be interpreted and construed in a purposive manner consistent with the policy intention of the Act. In this case, the policy intention is very clear and it is confined to purchasing the rights of the depositors and members of the Hindu Credit Union in a way that will try to compensate them for the loss that they have suffered.

And therefore, when taken together with the long title, the Preamble and the individual provisions, when one straddles it against the four corners of the Act, I do not think it can possibly produce a result that will say that we are obliged to purchase anything that is other than their shares or moneys with the Hindu Credit Union. [*Crosstalk*] Yeah, and I do not think there is any possibility of abuse because the intention is clear, the purpose is clear—and in any case, Senator, I am addressing your concern by saying it for the record that the policy intention and the purpose of the legislation is really to purchase the rights and interest that they would have had in their capacity qua depositor/member of the Hindu Credit Union, so that is there on the record.

Now, Mr. Vice-President, in closing, we recently had the matter of—a similar matter concerning Clico which we had lost in the High Court and it went to the Court of Appeal and suffice it to say that the vindication for the plan put forward by the Government in that matter from a strong Court of Appeal—in which the Chief Justice sat—came in the judgment itself when it described the Government’s approach to the Clico matter as, and I quote:

“...methodical, reasonable and proportionate in the circumstances”

I dare say, Mr. Vice-President, this approach by the hon. Minister of Finance and the Economy is one that deserves the highest commendation. It is consistent with the principles and values that, as a society, we have always stood for, and that is to help the poor when they have been wronged and aggrieved, and in this case, the members of the Hindu Credit Union have been justifiably and legitimately—they have been made to feel aggrieved and hurt by the way they have been treated. And in this matter, the Government stands proudly and tall to say we bring this legislation as a compassionate and caring Government to bring some relief to them. I thank you very much. [*Desk thumping*]

PROCEDURAL MOTION

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Mr. Vice-President, in accordance with Standing Order 9(8), I beg to move that the Senate continue to sit until the completion of the business at hand.

Question put and agreed to.

PURCHASE OF CERTAIN RIGHTS (HCU) BILL, 2014

Sen. Dr. Lester Henry: Thank you, Mr. Vice-President. I will just have a relatively brief contribution to this debate and just to correct some of the innuendo and partial truths and so on that were spewed between the contributions of the hon. Attorney General and Sen. Maharaj. I want to just debunk some of that urban legend and generalized mythology that were thrown out there as facts. Okay?

Now, in terms of the actual credit union situation, before I get into those corrections, the challenge of regulating credit unions is something I have had to deal with in my career as a financial services consultant, not just in Trinidad and Tobago but across the region. I have written papers on the subject and so on over the time. So, I know it is a difficult thing when you talk about trying to get proper regulation for credit unions and in more recent times, when the IMF and World Bank started encouraging countries to move to a single regulator type of organization, type of system, from having different regulators for different segments of the financial sector. So there was this trend that developed several years ago towards a single regulator. So everything now would come under the Central Bank.

So the idea was just like how you put insurance companies under the Central Bank, just roughly about 10 years ago, the same thing would happen with credit unions. But there is a fundamental problem that always pops up and the Attorney General alluded to it in a way when he said the plan was to put certain credit unions of a particular size under the Central Bank, and then maybe do something else with the others.

Now, the fundamental problem with credit unions is that they have such a wide variety in size and structure. You could have something like an Eastern Credit Union which is a massive organization, very successful and properly run, to the best of my knowledge, and then you will have a credit union with two people in it. How do you make legislation for a massive entity such as Eastern Credit Union and then that is applicable in the same way for institutions with two or three people in it? Because credit unions, as we have heard, could be formed on any basis basically. So, it is a major challenge for any piece of legislation and I would like to see or hear how that would be dealt with in the upcoming legislation. It is a major problem. I ran into it when I did consultancy work in Belize and had to go and talk to all the different credit unions as to what did they want to see happen if they were put under the Central Bank.

Because one of the big issues that credit unions keep saying, they keep making the point that they are not banks. They are different entities; they should not be treated like banks. Now—and this is even the biggest of the credit unions, they say, “But we are a credit union, we are not a bank” and why should they—*[Interruption]*

Sen. G. Singh: [*Inaudible*] monetary environment so they do not want the same regulatory—

Sen. Dr. L. Henry: So they do not want the same regulatory system in place for them. Then, secondly, they say, “Well if you”—on the other hand, many of them, especially the slightly larger ones, believe that—they want to carry out the functions of a bank. Everything that a bank wants to do, they want to do it too. They want to have credit cards, they want to make loans, they want to do this—everything that a commercial bank does, they also want to do it, but they do not want to be regulated as a bank. Okay?

Hon. Senator: Good point.

Sen. Dr. L. Henry: No, well, as I said, I ran into the problem and it is not that easy to get around.

So when you start one way that easily pops up, you could say, “Well, okay, the big ones will come under the Central Bank and the small ones” and then they start saying, “No, no, no, we do not want that. We are all credit unions.” So it is a difficult nut to crack so it will be interesting to see. I have studied and ran into different proposals in terms of trying to get around that, but that is one of the major stumbling blocks in credit unions and I am sure your drafters will run into the same problem when you try to get this thing through. Okay?

So, as I said, I do not want to be long so I will just get into my—where they gone now? [*Laughter*] The two of them? Let me just take a few minutes to correct some of the, as I said, misinformation, innuendo and thing. Now, this is from an article in the *Express*, October 23, 2012, in which Harry Harnarine, the same Harry, said he financed the UNC and the PNM:

“The Hindu Credit Union (HCU) financed the campaigns of the country’s two major political parties...”

—the obvious PNM and the UNC.

Sen. G. Singh: What year that was?

Sen. Dr. L. Henry: 2012.

Sen. G. Singh: No, financed in what year?

Sen. Cudjoe: He will read it.

Hon. Senator: 2007.

Sen. Dr. L. Henry: Well, I will come to it, easy.

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“The funding to the PNM was in the sum of \$500,000 and included free advertisements on the HCU’s two radio stations, Shakti and Masala...”

A big whopping \$500,000. Right? And, of course, Harry Harnarine said:

“...the HCU provided ‘cash and other resources’ to the UNC in the amount of \$2.5 million...”

Sen. Coudray: Harry can say what he wants, eh, facts. [*Laughter*]

Sen. Dr. L. Henry: Once it is not in your favour. [*Crosstalk*] \$2.5 million. [*Continuous crosstalk*]

Sen. Hadeed: Is that the same Harry that wiped out all “dem” people? That same Harry? “Allyuh” believe in Harry?

Sen. Cudjoe: Tell them why the COP did not get money.

Sen. Dr. L. Henry: The HCU viewed the COP—[*Continuous crosstalk*]

Mr. Vice-President: Hon. Senators, could we [*Inaudible*] Sen. Henry, notwithstanding he was disturbing others? [*Laughter*]

Sen. Dr. L. Henry: A man just stood next to you and spewed tremendous inaccuracies and misinformation and—[*Interruption*]

Sen. Cudjoe: Tell them why COP did not get.

Sen. Dr. L. Henry: By the way, just for the record—“it have no more COP Members here”. [*Continuous crosstalk*]

Sen. Hadeed: Look one right here.

Mr. Vice-President: They want to hear the contribution of Sen. Dr. Henry, please, go ahead.

Sen. Dr. L. Henry: I was going to say something about the COP but I do not see any COP members here.

Sen. Cudjoe: He said he is one. Sen. Hadeed.

Sen. Dr. L. Henry: Or okay, well, thanks for identifying yourself. He said the reason he did not give any money to the COP, he:

“...viewed the COP as a nuisance...”

I feel like thumping the desk for Harry on this one. [*Desk thumping and laughter*] Deny that! [*Crosstalk*] Seriously.

6.10 p.m.

No, but you see, that is the problem with many on the Government side, you know. When the newspapers give them credit, it is all good and fair. If the newspapers criticize them, it is because it is PNM.

Sen. George: But it is PNM—[*Inaudible*]

Sen. Dr. L. Henry: You are the Government. [*Crosstalk*]

Sen. Hadeed: “Lester boy, you continue, yes.”

Sen. Dr. L. Henry: Yes. So what I am saying—let me start with the last one first. I will get to Sen. Maharaj after. Now, the Attorney General started off in a very meek and mild approach, you know, and he warmed up into a kind of frenzy towards the end, you know, as though he was looking for a spark to come somewhere, right? He talked about the discrimination. I will just touch on a couple of things that he mentioned. The discrimination about people coming from a particular community, the people who form the basis of the HCU, and we know what he was implying. But I do not understand what the big deal about that is, in terms of other ethnic groups in the society. We all face this. People in the East-West Corridor could tell you horror stories about going to banks and not getting a loan. All of us, many of us of that age group could remember those days. So I do not understand what the point is.

Sen. G. Singh: He was saying that it was a trigger and a catalyst for the evolution of the credit unions.

Sen. Dr. L. Henry: Yes, okay. I know what I am saying, very well. [*Crosstalk*] It is not foolishness—we understand—[*Interruption*]

Mr. Vice-President: Senators, please. Senators, we had a long night, almost midnight last night. We seem to be wasting more time that we take doing these things; we will just continue again with the later hours. Please allow Sen. Henry to make his contribution. You could say “ah lil ting”, but tone it down. [*Laughter*] [*Desk thumping*]

Sen. Dr. L. Henry: Thank you comrade and, Mr. Vice-President, for that protection. No, so what I am saying is that, we all, many of us in this room would have had the same, similar experiences ourselves, or our grandparents or parents. So what I am saying, do not try to point as though it was just something unique to one community; that is unfair, okay? That is not true, and it is unfair, okay? [*Crosstalk*]

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Okay, and then he very calmly said, well, the oil revenue and whatever was not trickling down and so on. A significant amount of the oil revenue went into the development of Point Lisas, [*Desk thumping*] and revolutionized central Trinidad and it has never been the same since, okay? [*Desk thumping*] I do not understand. And the highway from Port of Spain to Chaguanas, the extension down to San Fernando, all of these things aided in the development of what now exists in these regions, okay? So it is—I am just trying to set some—put some balance on the thing, okay? So do not pretend as though there was not another side of the picture.

Now, and talking about the whole issue of supporting the PNM or the UNC, which was implied as the reason why Mr. Harnarine was allowed to do what he did, I mean, there seems to be a kind of schizophrenia here, when I listened to the two contributions of Sen. Maharaj and the Attorney General, because the Attorney General started off seemingly to praise Mr. Harnarine. I was getting a little worried there for a while, you know, because I have some quotes from the enquiry where the lawyer for Mr. Harnarine called him a kind of revolutionary thinker, a man of great honesty and integrity and—[*Interruption*] let me finish, and then he saw him as leading a slave rebellion. [*Laughter*] That is in the press, yes, here, yes. I have it, right?

Hon. Senator: Do not trust lawyers.

Sen. Dr. L. Henry: You must not talk about the Attorney General like that. [*Laughter*] [*Desk thumping*] [*Crosstalk*] So, yes, right.

Hon. Senator: Henry, stop provoking.

Sen. Dr. L. Henry: No, no. What I am saying—no, but the only reason I raise Mr. Scoon's comments is that, for a minute there I thought the Attorney General was agreeing with him. He got me worried for a bit.

Sen. Hadeed: Me too, eh. [*Laughter*]

Sen. Dr. L. Henry: Admission is good for the soul. Yeah, so I was wondering well, is this the same man that was just called all kinds of names by the hon. Sen. Maharaj? [*Laughter*] But my point, hon. Vice-President, is that the events of the Hindu Credit Union, the mismanagement and the kind of skulduggery that took place—in my reading of the situation and following it from all the different articles and, in fact, listening to some of the enquiry as well—to me this was an in-house kind of operation, in the sense that the same people who were regarded as very good, decent people, who set up the Hindu Credit Union, and became part

of the board and the management, ripped off other people that they knew very well. That is how I see it—that many of the people, if you look at the list of who benefited from all the bad loans and all the “crookrey”, many of them I am sure they seemed like if they were even friends or family, related to the same people who set up and were running the Hindu Credit Union, right?

Sen. G. Singh: The people who initially set up were not the people who they had running it.

Hon. Senator: Harry took over.

Sen. Maharaj: They did not have anybody from the original board.

Sen. Dr. L. Henry: But who were the members? Everybody left after '96? [Crosstalk]

Sen. Maharaj: The original members when Harry took over were about 61, if I am not mistaken.

Sen. Dr. L. Henry: But when did he take over?

Sen. Maharaj: In '96.

Sen. Dr. L. Henry: All right, that is very good. I am glad you confirmed that because in a *Newsday* article—[Interruption]

Hon. Senator: You do not know the facts.

Sen. Dr. L. Henry: No, no, no, I wanted you to say it. You took the bait. [Interruption and crosstalk] So he took over in—you said everything was okay before 1997. [Crosstalk]

Now, Andre Badoo, one of the UNC's favourite reporters in the *Newsday*—yes, in the *Newsday*, and it was not in the *Express. Newsday*, July 10, 2012, roughly two years ago:

“WHILE there were signs of bobol (fraud and corruption) in the credit union sector since 1992, the State failed, under successive governments, to act to protect shareholders...”—and so on.

This was based on evidence submitted by one:

“Anthony Pierre, former head of the ill-fated Credit Union Supervisory Unit...”

This was a unit that was set up to monitor credit unions, but then it eventually went defunct because of several issues which I would not take time to outline here.

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So what I am saying is that there were issues involved in the story long before, and also when we talk about political influence, and Sen. Maharaj raised the issue of Conrad Enill, former Minister Enill. I wonder if he would say the same thing when former Attorney General Lawrence Duprey—Ramesh Lawrence Maharaj, sorry [*Crosstalk*—they have the same name in common—went on record as saying that Clico was insolvent, and he was chastised by the then UNC Government, [*Desk thumping*] they ganged up on him and almost destroyed him. The same Ramesh Lawrence Maharaj warned about the impending disaster that Clico was tending to be, and the same thing happened. The deposits at Clico and CL Financial went—skyrocketed after he was slapped down by then Prime Minister, the hon. Basdeo Panday; slapped him down, put him in his place.

So, do not have selective memory. Clico became what it was, the giant, after that intervention. I have the data. And this—talking about the issue—really trying to provoke me here. Mr. Lawrence Duprey went on a UNC platform and said that he would migrate, take his assets and leave the country if the PNM got back into power. [*Desk thumping*] Do not tell me about politics, and—[*Interruption*]

So, yeah, yeah, yeah, right. Come on, be serious. And, all just be honest and be balanced in your thinking, and do not have selective memory. I mean, how could, I mean, anybody who call themselves UNC could disassociate themselves from Lawrence Duprey?

Sen. Hadeed: Me.

Sen. Dr. L. Henry: Madness! No, you said you are a COP. [*Desk thumping*] You just said that you are a COP. [*Laughter*] I said UNC. [*Laughter*] You just said you are a COP. [*Interruption*] [*Crosstalk*]

Mr. Vice-President: Senator, Senator, Sen. Henry, please. I am trying to protect you, but apparently you are encouraging it. [*Laughter*] So, therefore, please let us get on with it. It is getting late. Let us get on with it.

Sen. Cudjoe: Watch your time, eh Lester. Watch your time.

Sen. Dr. L. Henry: No, no, no, I am stopping. I am stopping just now, yeah. No, and you are saying—also, I want to put on the record, the Attorney General talked about the difference between HCU and Clico, and the systemic risk argument. Of course, the systemic risk argument had a serious, what they called it?—had serious credibility, because you suffered with the burden of trying to fix it. I wish the hon. Minister or the former Minister of Finance was here to say—but, of course, because the hon. Minister of Finance and the Economy always talks about 20—what is it?—\$21 billion or \$22 billion.

Sen. Young: 25 he is up to now.

Sen. Dr. L. Henry: Now he is up to \$25 billion. So who could actually say that that was not a systemic risk? We lived it. We are living the consequences of it. As many of you could probably go up on a platform and say in the campaign coming, well, if we did not have to use that \$25 billion for Clico, we could have built more schools, roads—[*Interruption*]

Sen. Hadeed: No, we would not say that.

Sen. Dr. L. Henry: You will say it.

Hon. Senator: Oh yes!

Sen. Dr. L. Henry: Yes, exactly.

Sen. Hadeed: No, you are not sure.

Sen. Dr. L. Henry: So you do not consider that a big problem?

Sen. Hadeed: Yeah, but definitely.

Sen. Dr. L. Henry: Okay. Well, right. So admit to it. So the idea that [*Interruption and crosstalk*] you could dismiss the systemic risk argument is nonsense. It was a systemic risk. And the problem is that if we had allowed it to fail and brought down other financial institutions, then the bill may not have been \$20 billion or \$25 billion, might be \$30 billion or \$40 billion, if we had to fix the system. So it is quite—

Now, one other issue that I think was worth mentioning about the different treatment. Remember all of the interference and so on that the Attorney General outlined continued, that was there in—when he quoted what happened in 1998. We are not disagreeing with him, but that same pressure kept going throughout most of the period.

Hon. Senator: 2008.

Sen. Dr. L. Henry: Up until—no, no, no it was 1998 he made reference to the inspectors not being allowed—[*Interruption*]

Hon. Senator: No.

Sen. Dr. L. Henry:—in 1998, yes. I did not miss that, and he was not afraid to admit it was 1998, okay? So all of that same pressure continued into the 2000s. And as you could see with the CL Financial, it is a lesson all of us have to learn. This is not something that you need to be overtly political about, but you have to get as to why our system allowed both of these things to happen, okay? I am not going to let anybody off the hook whoever is—[*Interruption*]

Hon. Senator: Culpable.

Sen. Dr. L. Henry:—was culpable, let it be, okay? So on the other hand—now, so we see that the Hindu Credit Union also, you know, expanded its operations and, of course, just like the CL Financial—in many similarities, they went beyond a certain limit, and the skulduggery and the thievery were essential parts of why they became so big, because they were taking other people’s money, OPM.

6.25 p.m.

Now, I do not have much more to add, but I just want to point out that in the process of the Hindu Credit Union, in the commission of enquiry set up, put in place by the hon. Prime Minister, your esteemed leader, something came out that was very interesting. Many of you are familiar with the story; it is not that long ago, it was reported in the *Express* on October 23, 2012, where “Auditor admits to hiding \$31m loss”. This is in the enquiry of the Hindu Credit Union investigation, so I am not straying too far.

“Auditor Chanka Seeterram yesterday testified that he doctored the Hindu Credit Union’s...financial statements in order to hide a \$31 million loss and buy the cash-strapped credit union some time.”

This is the same man that I mentioned in the other debate who obtained 460,000-odd FCB shares. This is an established auditor of many, many years admitting to cooking the books. In this story, he is being questioned, I believe, by an attorney for the commission and further on in the story, after establishing that he did this and his admission on oath that he actually cooked the books, he was asked the question by the attorney Miss Smith and:

“Seeterram said that the \$31 million loss should have rightfully been included in the profit and loss account.”

If they had done that, they were declaring a slight profit for the year, hon. Vice-President, and if he had put the loss in, the overall picture, you would have seen a loss and that could have had significant implications. So the attorney questioning Mr. Seeterram at the time said:

“Your concern was that if you insisted upon...(including the \$31 million loss in the profit and loss account) that would have been the end of the HCU.”

And to that Mr. Seeterram answered:

“I was looking at the bigger picture...”

So what I am saying, it is not only even the regulators that kept these things going when they should not have been. So do not say that it is just simply political interference as some of you were implying. This is the auditor who could have come clean and said this thing is running at a loss, and he cooked the books and admitted to it six years later.

I am saying do not rush and try to play thing. [*Interruption*] Yes, he recanted it. Yes, I know, later on. I have that story too and he came up with a C&B story about looking for something in a factory and the workers, all of them who worked at the time no longer there and a set of mumbo jumbo. I am familiar with that story.

So, Mr. Vice-President, I promised not to be too long, but they provoked me a bit and I had to extend a little longer and the rest of it I will deal with on another occasion. Thank you. [*Desk thumping*]

Sen. Dr. Dhanayshar Mahabir: Thank you very much, Mr. Vice-President and thank you very much my colleagues in this honourable Senate on the Independent Bench, Opposition and Government. We have been in this Chamber now for approximately 21 hours of working time, since yesterday at 10.30, and I hope I would be forgiven if I take a little while longer than other Senators would like me to take in my contribution.

First off, let me commend both Sen. Al-Rawi and Sen. Singh for having been successful at the SEA exam. I always knew their children were going to make it very well. It is the parents I always worry about, having found myself in that situation a good 10 years ago. So if I do delay, Sen. Singh, I expect to be forgiven by you because I know that celebrations are in order.

Second, let me say that I hold the view that this particular legislation is definitely not ad hominem. It is the first time I have heard the words and I agree totally with the AG that this is not ad hominem legislation.

[SEN. DR. R. BALGOBIN *in the Chair*]

While, Mr. Presiding Officer, my good colleague, we can expect that the legalities of it should be left to the lawyers, there are certain economic matters that we need to address and I rise to speak to address, first, how did we get to the situation that we found ourselves in; and, second, how will we ensure that it does not happen again? There are two issues and, therefore, I ought to be permitted, I think, a little leeway in looking at a bit of an anatomy of this problem. So I would ask hon. Senators to bear a bit.

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Let me, in taking off from my colleague, Sen. Henry's contribution, focus a bit on the nature of the bank and then examine the difference between the bank and the credit union. Banks, as we know, are organizations which love to lend when you already have and when you do not have they love to take from you. This, Sen. The Hon. Minister of Finance and the Economy, is the nature of the bank. A bank, first off, will ask you for security in order to provide a loan and for when you cannot repay as when, in fact, your mortgage payments happen to be delinquent.

This happened, of course, to the Workers Bank and so on. They lent for mortgages; they were unable to recover during the times of the recession and so the Varinstall programme, with which the Minister is very, very familiar, led to the collapse of reasonably good organizations. So banks are institutions which will facilitate those who already have assets and when you are unable to pay, then the banks will come claiming a return of that which they have advanced to you. It is the nature of the business.

The credit union, on the other hand, has always been peculiar. It is an organization that must make a return because it has expenses. It must be able to provide a return to—and welcome back, Mr. Vice-President.

[MR. VICE-PRESIDENT *in the Chair*]

The credit union is not a profit-making organization. Such has been established by the hon. Minister of Finance and the Economy. This is an organization which must cover its expenses, must raise a rate of return to provide some return to its share subscribers, but the essential focus of a credit union has always been to look after the credit needs of its members. It is called a credit union for a purpose.

What does the credit union do? It builds people; it does not maximize profit; and this has been the nature of the business since the 1800s. I will come to a little bit of the history because where we got in the HCU has a history and it did not start in 1985 only. We have a number of credit unions in this country that are functioning and performing as they ought to. This one went awry. We need to see why it did, why it was allowed to do so and what could we do in the future to ensure that no future Minister of Finance is going to have to come with a Bill like this to seek the approval of Parliament to pay those poor individuals who were fleeced of their hard-earned money.

So I support this particular piece of legislation in its intent because it is one aimed at protecting the interest of the poorest and the most vulnerable in our society. I will come to the reasons why this piece of legislation is receiving my full support and the support, I would imagine, of many Senators on this particular Bench.

The credit union really builds people and it builds people in this particular way. When someone has no security, no asset, no capital, no wealth, no stock, he is starting from scratch; he is starting from nothing. The credit union says, “Well okay, show me that you can generate some savings even though you are very poor. For every \$100 you can save in the organization,”—and it is creating discipline—“you can borrow an additional \$100.” So, if you are able to save \$500 in the credit union under normal conditions, you will be able to borrow \$1,000.

What does that indicate? It indicates—and I am making this point to come to a deeper point—that the credit union as a selective organization has already screened its members. You see, when an individual goes cold-calling to a bank, the bank manager, the loans officer does not necessarily know this person. It may be the first time you are seeing him or her and so you will ask for a lot of qualifying documentation to attest to the bankability of this individual.

The credit union, knowing its members, will, after a period of time, understand that this individual is serious about saving and about building himself and so loans credit is available and the credit is available at a rate of interest that is attractive. And while you are repaying your loan, you are repaying on a declining balance. You borrow a thousand, you initially pay interest of 6 per cent in general on a thousand, but if at the end of the year you owe \$800, you are going to pay interest on \$800; and then at the end of another period you owe \$500, they are charging you interest on the declining balance and while they are doing that, that which you have subscribed as shares in the credit union will also be earning part of the profits that the union has created by way of its operations.

It is, in fact, a system and organization that is essential and critical for developing the poorest members of our society and giving them an opportunity to acquire capital; an opportunity to acquire some stock; an opportunity to purchase some asset, and it is available to them so that they are going, at some time, to also be owners of capital.

In our type of economy, if you do not own capital, all you have to sell is your labour time and labour can always be exploited. That is why you have a combination called a trade union to fight for capital. You do not have a capital union to fight for capital. Capital can fight on its own. So that we do have the credit union looking after the interest of the poorest people, building them up, giving them an opportunity.

Credit unions can be very small as they are in the Grameen Bank in Bangladesh. It is a credit union where individuals will contribute the equivalent, I would imagine, of a few pennies and after a while they are able to raise funds and from that capital pool, they make loans to their members. And unlike a bank, the compliance rate in these

microcredit institutions usually amount to 99 per cent. Why is it that in the Grameen Bank 99 per cent of people repay their loans and the default rate is 1 per cent? If any commercial bank can achieve this rate, it is phenomenally successful.

They are able to do it because of two factors: one, people do not borrow more than they can afford to repay, so that the loans which are given are not massive. They are given based upon your ability to pay. It is not like the SRC loan that we get—\$360,000 to buy a car at 6 per cent and, at the same time, if you were to buy a car, payment on that car is 70 per cent of the salary that I am earning—70 per cent to pay on a car?

6.40 p.m.

No bank is going to make that bankable, but in terms of the microcredit institutions you are able to borrow, and as you borrow a certain amount, you repay. You repay not only because you have an ability to repay, you repay because of the social pressure—you belong to a group; you belong to a club; you belong to a union; you belong to a fraternity; you belong to an organization that is able to put pressure on each other to comply with the rules of the union.

So we have small credit unions like the Grameen Banks; we have medium-sized credit unions; we have very large credit unions. The largest credit union in the world is the International Monetary Fund. This International Monetary Fund is a credit union where members who are in surplus contribute to that fund and members who are in difficulty will then draw down from the fund, and so we as members of the IMF, we are obliged to repay our loans, because if we do not, the same rules apply: other members would put pressure on us to repay the revolving fund in the IMF. So, credit unions are able all the time to collect; they are able to make loans and they are able to give credit to those who are in need. This is in contradistinction to the banks.

Let us look at what has prevailed in our Republic up to the time of the HCU. Post-emancipation, Mr. Vice-President, there existed in this country, and there still exist to this day, that which we now know as friendly societies. The friendly society was the first type of people's organizations, first to service the emancipated slave workers from the plantations and then, increasingly, to serve the indentured immigrants who remained in Trinidad, and they were known later as burial societies because people without family, without an extended network, needed to have some agency that would look after their final rites. Funerals were always expensive. They did not have to save much for weddings because of the state of the society at the time but, certainly, when one joined a friendly society, you contributed pennies per week and you were guaranteed that there would be a decent burial. We have had the friendly societies serving the population on the ground.

We then had the beginnings of the credit union movement later on. We have had credit unions in this country for a long time. They have been associated with the Catholic Church for quite a while. I know we have credit unions since the early 1950s which I am familiar with, still around and functioning. Once there is a group of individuals who understand the needs of each other, they provide a supportive network to create credit in an economy where the ownership of cash, the ownership of a large sum, is really a sine qua non of advancing and progressing, and we have had, therefore, this particular facility in the country.

The friendly societies gave way, of course, to the credit unions in Trinidad and Tobago, and all organizations operate according to rules; they operate according to customs and traditions. When we heard about the 1985 formation of the Hindu Credit Union, we have to understand that the community was not ever denied of facilities for credit. You did have the friendly societies that I mentioned, but also the Caroni (1975) Limited organization had, as part of its structure, a sugar welfare loan facility in which workers and cane farmers were able to access a certain type of loan if they were going to purchase land or build houses. So, you did have that facility for workers in Caroni (1975) Limited, and for the sugar workers in general, and you did have the commercial bank.

Barclays Bank in Trinidad and Tobago, I understand, had certain signs written in Hindi in places in Trinidad and Tobago. [*Interruption*] It did have Hindi writings there to tell that this is the bank come and place your money, and many of the people did, in fact, use the facilities of the bank. But we did, come 1985, have the creation of this financial institution, well meaning, and an institution that was definitely geared to service the needs of people who needed this type of structure.

Recall, prior to 1985, we had a financial crisis. We had a considerable number of individuals losing their money to the trust companies in 1981; 1981/1982 trust company after trust company after company failed, and so in the middle of the great depression of 1983—1984, the Hindu Credit Union was born. When one looks at the history, Mr. Vice-President, it was designed to be a typical credit union, but then with a small base—as Sen. Devant Maharaj had indicated to us—came an individual, 1997, and that particular individual, tutored elsewhere with a different kind of socialization, not from the credit union movement. And, you see, we need to place this argument in context, because what has happened is this: The credit union movement has been tarnished because of the collapse of the HCU. We cannot allow that. We absolutely need this type of institution to create a facility for poor people to build themselves.

I would like to see more of this type of institution in depressed areas of Trinidad and Tobago where we can get the women as in Bangladesh—they operate under the Grameen Bank structure—women will be empowered by raising money for themselves, by giving each other microcredit and by ensuring that they on their own can lift themselves out of poverty. We can use these institutions to bring pride and a level of hope to the people in the depressed communities, in particular the women out there who are no different from the women in East Harlem who have followed this particular practice, and the women across the developing world.

Now, because women happen to belong to a gender where—and it is not poor people only as the AG said—women in general tend to repay for some strange reason. I need to talk to women to find out: why it is they are able to put pressure on other women to pay, and men cannot put pressure on other men to pay. Men seem as though it is their right to run away with money.

Sen. Baldeo-Chadeesingh: Women are decent.

Sen. Dr. D. Maharaj: Women are not—Sen. Baldeo-Chadeesingh said: “Women are decent.” I do not think they are decent, Mr. Vice-President. [*Laughter*] I do not think it is a level of decency only. I think they are decent, but I do not think that is the reason. I think there is something in the fraternity of women, but it is borne out, Mr. Vice-President. I am glad that I am livening the Chamber after 21 hours.

But, really, we do need to understand this gender-particular specific attitude where women, in general, have a tendency to repay. I think it is a social pressure that they place upon each other. They do have an ability to shame in each other. Naming and shaming is something that has always worked, and I suspect in these small organizations where you have closely knit groups of 12 or a dozen women, they have always had a repayment rate.

I think in the “sou sou” as well, which we have always had, the repayment rate was always very great. I cannot recall of anyone running off with a “sou sou hand” and not, in fact, paying because they will find you. [*Interruption*] They do, they would run off. But, you see, they would be able to get away when the village setting has collapsed. You cannot run off with the “sou sou” and expect to live in that village. No, no, you cannot do that. [*Interruption*] I think you can have, Sen. Prescott, in Toco, a good “sou sou” but the moment the person can run to Grande, you are not going to get that good compliance rate.

The fact of the matter is, what has happened with the HCU debacle is that we are looking askance at the credit union movement, and when we examine the credit unions in the Republic, in Trinidad and Tobago, we see by far and away the majority of them

are functioning and serving their members and confining themselves to their core business, that which they know. And I want to focus on core business, because what we are told by Sen. Devant Maharaj and AG Ramlogan is that this organization, post-1997, decided to become something other than a credit union whilst still calling itself a credit union. Look at the parallels.

Clico decided to become something other than an insurance company, while calling itself an insurance company. So this particular company, Mr. Vice-President, went into the health sector; into the security sector; it went into travel services; real estate, and it proceeded to expand according to a haphazard line without any structure. What was the thinking behind this particular structure? And I think the AG is right. We do need people who are trained in finance to manage financial organizations. We need financial organizations to be regulated. We cannot get someone who was trained by Lawrence Duprey running a credit union, and that is his claim to fame. I would like the person to be trained at the UWI School at the IOB, somewhere in finance, so we would be able to know the direction at least in which you are taking this organization.

But, at the same time, what we have, Mr. Vice-President, is a set of rules, regulations on the credit union movement. The Commissioner of Co-operatives would have been accustomed to dealing with Eastern Credit Union and Aero Services Credit Union and Nestlé Credit Union and Police Credit Union, all of whom are confining themselves to credit union business, but when you get one director of the cooperatives—one commissioner—who has to now examine this organization: what is he examining?

While, in fact, the gentleman may or may not have been complicit in the arrangement, I can tell you, looking at the scandal in the United States with respect to mortgage-backed securities, regulators still do not know what these securities are. I am putting myself in the position of the Supervisor of Insurance as he has to examine that monstrosity that became Clico, and I said to myself: how could this gentleman regulate?

What had happened was this: The regulator of the credit union company was not regulating a credit union—as much as we may be hard to pressure this gentleman and we should—but he was regulating a company that was no longer in credit union business. It was now a land developer; it was now a travel service; it was now a health care provider; it was now in the security business; it was now in the food business and, what was he regulating? There was no way that this gentleman could know what he was doing. So, throw up your hands in the air, and you found yourself not being able to regulate very well.

What we then subsequently saw was that the failure of regulation was on account, not only of the weak structure of regulation, but in allowing this organization to move out of the base which was subscribed by law. There had to be some weakness in the law. There had to be some weakness, which would allow an organization to call itself a credit union and engage in the most risky, speculative, real estate business for which you cannot find a title for land, because if other credit unions behave that way—and I am sure they are complying by the law—ever so often the Minister would have to come to the Parliament to seek funds for their particular liquidation. So that it has to be that there were weaknesses with respect to the law which were exploited. We need to correct that.

It has to be that there was some kind of complicity with those in politics and, therefore, I need to tie that with campaign finance reform. We cannot have these individuals, these confidence artists, making small contributions to political parties, and they know the political parties need the financing in a campaign programme, and then in exchange for that, the political parties when in power are going to really turn away from their responsibilities in bringing them to book.
[*Desk thumping*]

It is not as if, Mr. Vice-President, people did not know. As early as 1998, there were people in the Ministry of Finance who were whispering to me at the highest level that there are concerns. In 1998, I recall this because I went to speak to the Standard & Poor's people—that was when the hon. Brian Kuei Tung was still the Minister of Finance—to get Trinidad ratings increased, and top people in the Ministry of Finance indicated to me that they were very concerned that the HCU was moving out of its remit, and they were a bit perplexed.

6.55 p.m.

Could the Ministry of Finance have intervened? Could the commissioner of credit unions, of co-operatives have intervened? Could the Governor of the Central Bank have intervened? The answer is, they could all have and they could all have not. The reason they could is that the credit union found itself in banking by taking in deposits. A credit union taking in deposits? Is it a bank or is it a credit union? Hence, I started with what is a bank. A bank takes in deposits. A bank does not, really, generally issue shares against your loan, that is not its core business, but this HCU, Mr. Vice-President, was really taking in deposits. Could that have been regulated by the Central Bank? The Central Bank would have said you cannot do that, but then can the Central Bank step on the toes of the Commissioner of Co-operatives, and then the Ministry of Finance knew that there were problems arising, could it in fact have intervened?

It reminded me of the various agencies in the United States that did not know what to do when the 9/11 hijackers were seen within the United States. The CIA did not know what to do because they felt that was the FBI's responsibility. The FBI did not know. The immigration thought that they had a responsibility but the others will take. And so, within a very clever structure we found the HCU finding space. An organization which finds this type of space is an organization which is going to become bolder and bolder once it is able to escape the noose of the Ministry of Finance and the Economy.

It is not only in 1998, Mr. Vice-President, I have been in the business a little while. As "Chalkie" would say, "I am in town too long". In 2003, I recall going again to the Ministry of Finance—this was when the hon. Conrad Enill was Minister of Finance—again, to speak to the rating agencies, and again the individuals there expressed concerns to me that they were worried about what was happening at the HCU. So that it was not as if it came suddenly. This was a festering problem. The same with the Clico.

The Clico issue did not only arise in 2009. We heard about this thing way back in the 90s. We heard about it in the 2000s. We heard about it under the Dookeran administration. We heard about it under the Ewart Williams administration. It straddled administrations because what we have, time and time again in this economy, is something I will refer to—we have the "schemer". The schemer is a part of our landscape and, unfortunately, that schemer is a part of all the financial landscapes across the world.

So we do know that it was difficult, Mr. Vice-President, for there to be any firm regulatory control because the organization had become amorphous. It had become hard to pin down. We did not know what we were actually dealing with, and I think that was by design. One of the ways that they were able to get away with this thing was by having a media campaign, and by recruiting respectable people to actually be associated with them. They were able to generate confidence, and this is what BCCI did. The AG made mention of BCCI. It had a couple of US senators on its board to give it respectability.

HCU did the same, using its radio programme and whatever licences it had to reach a wide audience, and we on the outside could not know that this organization was technically insolvent. This organization was bust, it was bankrupt, it was broke; it was nothing except hype and hysteria. We are to be told, the Minister has to indicate to us how much of the \$21 billion spent on the Clico matter he is going to recover. I would like to know whether he is going to recover half or a quarter, or at the 21 per cent. Clico has some assets but, certainly, I do

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not think it is as much as the 21, because if Clico had as much assets as the \$21 billion he is paying out, Clico could have been able to raise money elsewhere to service its obligations. But they did not. It did not and, therefore, it too was insolvent. So we had two insolvent organizations.

What is interesting, Mr. Vice-President, is that the HCU got into stride at a time when the Caroni workers were getting their VSEP cash packages. There is something about retirement money. Retirement money is something you want to keep for a long time, and retirement money is something you want to protect, and given inflation, you want retirement money to earn a rate of interest. Many people who are retired—and we are coming now to the role of banks and to the role of the Minister of Finance and the Economy. You see, when we have retirement people, people who retire with gratuities, people who retire with their VSEP packages, people retire with lump sums, a couple hundred thousand dollars; this is the first time they are seeing this large sum. They want to place it in a safe haven.

Once again, I am going to appeal to the Minister of Finance and the Economy, people in our Republic should not ever have to go to Clico and the HCU because these institutions are offering attractive interest rates. They should go to the Minister of Finance and the Economy, and he should be selling bonds continuously, [*Desk thumping*] as was done up to 1990, before the IMF put us in a structural adjustment programme. Five per cent government bonds, I said that yesterday. I am saying it today and I will say it for the budget to come, and I will repeat it until it is implemented. I did that with the HSF until it was implemented, and I harassed the Manning administration until they got serious about it in 2006.

I will do it again with these bonds because we cannot—this is in the public interest—we cannot allow people who do not know. You see, we have to ask ourselves, did the people—[*Interruption*]

Sen. Small: We need a safe harbour for citizens.

Sen. Dr. D. Mahabir: Yeah, we absolutely need—and the safe harbour is offered by the Minister of Finance and the Economy, and the Minister of Finance and the Economy borrows and pays some \$6 billion in interest a year. I am seeing he is shaking—not taking me on too seriously, but out of that \$6 billion, Minister, I want a good few billion to go to the poor people of this country. They do not understand money like we do. They do not understand risks. They do not understand the recklessness and the thievery, and the connivery of people out there. They depend upon us and I think, you as Corporation Sole, you must now not sell it to those banks, those rapacious institutions called the commercial banks [*Laughter*] in Trinidad and Tobago.

They would borrow money from me for 1 per cent, they would lend it to Sen. Small at 9 per cent and they take a huge spread in between, and the poor people in this country will have to put money now in anywhere they can to earn a decent rate of interest. Minister, start selling those tax-free bonds, follow the Bank of Canada model, follow the Trinidad and Tobago model that was there and borrow continuously, and you will provide the safe haven. But that was only a sidetrack because I saw he was waking up a little bit. [*Laughter*]

Mr. Vice-President, we do need to ensure that this thing does not happen again. It will not happen, not under the watch of my colleagues on this Bench or, I think, in the Opposition. The Government does not want it. We do not want to allocate, ever again in the history of our Republic, one full year, Sen. Small, of all the money we make in oil and gas. We make over \$20 billion in oil and gas a year. That entire allocation of all the oil and gas for one full year has gone to pay for the malfeasance of Clico and HCU. [*Desk thumping*] We cannot do that again. We are legislating now for the future. That is why I am focusing on how/what we can do so this thing would not happen again—this demon does not arise, given the tendency for this devil to come over and over again to haunt us.

So, the point before us is this: How do we go about, having analyzed the situation, ensuring that the credit union sector is strengthened?—the Grameen Bank model is introduced in the Port of Spain depressed areas and the San Fernando depressed areas, and in the poor rural communities. This is going to cause people to mobilize income while, at the same time, ensuring that there is no burden on the State. There will have to be a framework where any credit union that is going to get out of the credit union business and into the furniture business, and into the real estate business, and into whatever business they want, will have to get approval from the Minister to create a separate business apart from credit union business.

So that if your members want to speculate in that endeavour, go ahead, but leave the credit union core business alone. We cannot jeopardize that business, it is too critical for the welfare and the well-being of the poorest in our society. Because once the credit unions fail—recently we debated the Moneylenders Act and the Pawnbrokers Act—people will have to go to moneylenders and pawnbrokers, and we do not want them to go there.

We want people to graduate from credit unions into mutual funds, and then into real estate and to buying their homes over time. So that is the base that we are not going to jeopardize. We look forward to rules and regulations, but I for one will not be sympathetic to any credit union which wishes to get out of its core business of lending to the poor and looking after the interest of its membership. There are other agencies which will deal with those things, let the credit union grow and expand.

So, Mr. Vice-President, we come now to the solutions before us. What solutions can we proffer so that we do not have to spend a full year of our oil and gas revenues in bailing out these institutions? We have to understand that there is always a penchant and a proclivity for individuals to engage in financial crimes of the greatest type. In Trinidad and Tobago we have had them. In the United States we have had Madoff and Stanford. In the rest of the world we have always had these individuals who are able, in some way or the other, to generate some kind of mayhem by violating trust. They violate the trust of the people who really are in no position to assess risk.

I am sure that not a single member of the Hindu Credit Union who placed his money in there was aware of the riskiness and the risk he was taking. He was depending on the people at the very top of Government to be looking out for his interest and, it is in this regard, I think, we as a society failed that particular credit union by our reluctance to intervene early and to ensure—get back into base, you are out, you will be stumped, go back to your credit union business and ensure that you do not create any kind of problems for the Government and for the people.

Sen. Devant Maharaj mentioned that the credit union, at one time, became no longer a credit union, but rather a deposit-taking institution. It had transformed itself into a bank, offering high interest rates. I think they may even have been offering US-dollar denominated accounts. They were offering accounts at attractive rates of interest in many currencies, and they became an agency that was no longer looking after the needs of their members for credit, they became an organization that was looking after the interest of fleecing the general population as best as they can.

I am not surprised that members tried to get visas to Costa Rica because they understood what they were doing, and they were engaged in what we now know as a Ponzi scheme. When we were discussing and debating the securities legislation, Mr. Vice-President, I proposed an amendment, and I would like to see that amendment is going to come because the Bill is now at committee stage, and the amendment was that any Ponzi scheme that is identified as such will be investigated by the Securities and Exchange Commission.

We come to the role of the regulator, you see, because in the United States this has existed before where an organization is no longer a bank or a credit union. We had the debacle there with the savings and loan crisis in the 1980s, where many savings and loans in the state of Texas just collapsed and caused a recession in the south, simply because you had these S&Ls, savings and loan organizations

taking people's deposits, which you have to pay on demand, and investing it in real estate which, of course, will appreciate in value or it could fall. They, unfortunately, found themselves in a declining market, coupled of course with a lot of improper, illegal and fraudulent activities, no doubt, very similar to the Hindu Credit Union, and a lot of the savings in fact were lost. The US Government decided to bail out the savings and loan because it held the view that it was really inept management and the people on the ground should not really be suffering.

What is being proposed here, Mr. Vice-President, is this: if we have organizations in the future mutating and changing, if we have organizations that are difficult to pin down, that the Central Bank cannot regulate because it is a credit union activity; the credit union cannot regulate because it is an insurance activity; the insurance arm cannot regulate because it is a banking activity—and they are able to work through the legislative cracks—we have the Securities and Exchange Commission. The Securities and Exchange Commission needs in fact to be a stronger institution investigating these Ponzi schemes.

7.10 p.m.

What is a Ponzi scheme? A Ponzi scheme is the most refined of schemes. When your business model has collapsed, instead of admitting that you have made a total failure of the exercise before you, you carry on the game and you offer high rates of interests to attract new depositors, to repay deposits which have become due. At some time, as we say, you will be found out. When you are found out, there is a run on the organization and there is systemic collapse. When that happens, we need those who have created a Ponzi scheme to be caught, but before that happens, the SEC must be able to identify.

If Ponzi schemes were part of the legislation of the SEC in the 1990s—first SEC law passed in 1996, no Ponzi scheme there—but if Ponzi schemes are now placed in there, we are going to give the SEC the responsibility. The buck will stop with them; let them investigate each and every instance of this practice: Clico Ponzi scheme, the HCU Ponzi scheme, International Trust Ponzi scheme, all those finance companies, Southwest International, Atlantic International Trust—Ponzi scheme, Ponzi scheme. It is an old scheme, it will come back. We do need to have Ponzi schemes now in our legislation. If we do that, we are going ensure that, at least, the perpetrators will be identified early.

If the Minister starts selling bonds continuously, there will be less of an incentive for people to go seeking after high rates of interest. There would be an

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incentive for them to purchase the Minister's bond as an intermediate objective and not go into these speculative investments.

We need to recognize that in this country—and I am coming to a point of my colleague, Sen. Dr. Balgobin—we have followed a British tradition which is not a noble tradition. I will be arguing in the Senate that we need to copy a great deal from the British, but there is one tradition that we need to suspend. The greatest buccaneer, privateer, the greatest brigand and thief in the history of the Caribbean, was a “fella” named Sir Henry Morgan.

This man “tief” so much from the Spaniards, it is always said when you have to “tief”, “tief” like a Viking. This man “tief” so much, that he was knighted by royalty. This man was able, after all the gold he stole in the Spanish Main, all for himself and for the Crown, he received the ability to sit in the House of Lords so he could sip tea with those who created the laws in England and with British royalty. In Trinidad and Tobago, we must send a message.

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

Motion made: That the hon. Senator's speaking time be extended by 15 minutes. [*Sen. Dr. R. Balgobin*]

Question put and agreed to.

Sen. Dr. D. Mahabir: Thank you very much colleagues. It is good to see that at this late hour and after 21 hours, we are now firing up. [*Laughter*] My point, Sen. Small is this: we are neither full-time nor part-time. I think the view of the SRC is that we come to this Parliament for fun, entertainment and for games, and it is for this reason I love the crosstalk. I have never laughed as much as I laughed at teatime today, when the hon. Sen. Devant Maharaj regaled me with some stories that he heard when he was a younger “fella”. So that we do have some entertainment in the Senate.

Let us focus, however, on the matter at hand. We are coming to the point where the British, in fact, gave a knighthood to Sir Henry Morgan, the biggest buccaneer and privateer in the Caribbean. We have since then followed the tradition of placing a great deal of respect and honour to those who have swindled. We have a capacity in this country, not to respect the ordinary “fella” who works hard, say is a decent guy, law-abiding, very quiet and so on, but the buccaneer in our society, the individual with bravado, the individual who we know is engaged in all kinds of activities, but driving the fanciest car—these are, as my colleague indicated, the new modern-day pirates.

What I would like to indicate, after we have looked at the SEC law, ensure that Ponzi schemes are finally put into our legal code, and the SEC will look at the example in the United States and see how many people are actually prosecuted and charged in a year for Ponzi schemes. Just check their website you would see that we have a lot to learn from them, because this situation is not going to go away. Every two decades or so, you are always going to find some deviant, some miscreant who will come and violate trust and who will take advantage of people who are accustomed to trust.

We are in a paper economy. We are in a financial economy. It is inevitable that we no longer will save in gold or metal; we are now saving in paper and currency. We are saving in certificates. Behind all of this paper is a level of trust. There will always be someone who will violate this trust, and this individual must know, as we speak today in the Senate, that we know he has existed in the past, he exists now and he will come at some time in the future.

Twenty years from now, he will re-emerge, and when he re-emerges, we would like these pirates of Trinidad and Tobago, these modern-day buccaneers to know that they are not going to be sipping tea with anybody in this Parliament. The buccaneers will know that they will have a Golden Grove to sample that particular drink called barbadine, which the AG has told us grows in such good abundance. I think this is where they belong. Once we send to them that signal that we are not going to take a year of foreign exchange earned from the oil and gas to pay for the schemes, the cons, the deception, the dishonesty, the trickery, the ill-gotten gains and the malevolent behaviour of those who want to plunder and steal and destroy from the poorest of our society.

Mr. Vice-President, we are out for them. We are looking out for them. We will be forever vigilant. They will not get away with it again. I thank you very much.

Sen. David Small: Mr. Vice-President, thank you very much for the opportunity to contribute to this debate. I want to start by saying that without question I support the intent and thinking behind this Bill. I will be repeating a couple of things that were raised by my good Senator colleague, because I believe reinforcement is important. I think we need to understand how we got here, and while we understand that this Bill is necessary to right something that really went wrong and to show a level of compassion to the citizens and those affected by the battle of the HCU, we need to understand what were the systemic causes and try to see how we can address them to make sure it does not happen again.

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I understand and support, and I think that in the AG's comments he indicated that the Government recognized that part of the reason for the Government taking the position it has and for bringing this Bill, is that there was a failure of the system, a failure of regulation, and that because it is incumbent upon them to put these things in place and these things failed the citizens, that the Government felt a level of responsibility, and demonstrated that it is a caring government, and I have no problem with that.

I believe that when one looks at the record and the excesses of the HCU leadership—I am not here to call names—the spectre of those excesses is just obscene. It is obscene. Visa card debts, \$3 million; something called “Money Express”, \$3 million; local and foreign travel, \$6 million. You try to figure out how could someone get away with this, in this blatant way, and still we are waiting to understand, where did it go? What are the penalties? Are there penalties going to be applied?

Money does not disappear. The FIU is here. Anybody who wants to find out where you have money, you can find it. If we cannot find it, call the FBI. Once you put money into a US bank from Trinidad and Tobago, someone will be able to tell you who put it there and where it has gone. That is not something that cannot be found out, so I struggle personally to understand, where did that money go, why is there not some sort of action taking place? We understand how many years this has gone on. I am not getting into the toing and froing, whys and wherefores. What is the outcome?

Mr. Vice-President, I want to raise a slightly different issue, that this Bill, in my mind, represents an effort to tackle the challenges also inherent in a bailout rescue plan. The other edge of this sword for the Government is that it does not want to be seen as rewarding the greedy or reckless, and this is something that we need to put in our thinking hat, that I am concerned about the moral hazard that this action could represent, because Trinidad and Tobago is a country that is famous for having copycats. We do not want necessarily someone to use this as a model of saying the Government has done this in one case, and someone decides to just be greedy and rapacious and decides to call and say, “Well, this has been done before, what about this situation?” I am just raising that as a red flag in what we are doing.

Another point I want to make is that the technical and economic case for a bailout has not been made. I am not disputing the Bill, but the technical and economic case for a bailout has not been made. What has been made is that there is a compassionate case on behalf of the Government, recognizing that people

have put their life savings, in many instances, into an institution and that that money has been mismanaged and misused, and the Government has felt a responsibility because the regulatory system has failed. The Government, recognizing that that is part of its responsibility, has brought this Bill to address that wrong, but the technical and, what I consider the economic case for a bailout regarding the issue has not been made. This is why I think Sen. Dr. Balgobin made the point earlier that the persons who will benefit from receiving back some of their money in bonds are some of the luckiest people alive. In many other countries you would just be stuck.

A point the AG made was that moneys were loaned by HCU to all and sundry, but a lot of times money was loaned to the “rich and famous”. I think those were some of the words that the AG used, and we have to be careful. In the US when they did the banking bailout, they did something and said that they were putting in place an income ceiling. They tried to say that you do not want people who are “wealthy”—depending on how you measure wealth—to be necessarily qualifying for public aid. I know that that is difficult to implement in this case, but the thinking is you do not want somebody who is already wealthy to be getting public aid. Public aid is for people who really need it.

As much as we are where we are with the Bill, I think that when we apply a level of rigour, those are some of the concerns that should really detain our brain. I have not seen the depositor profile at HCU, but there needs to be some weeding-out. A weeding out process needs to take place, in my mind.

Mr. Vice-President, I want to add also and support the position of Sen. Dr. Balgobin regarding the related party period. I myself spent many years in a space where I was responsible for corporate governance, and corporate governance failures do not occur overnight. I am concerned that the provision in the Bill—I understand the Minister of Finance and the Economy’s comeback that 12 months is the period they used in another case, but there needs to be a process of understanding, if you put the cut-off period at 12 months who benefits by just missing that deadline? I think there needs to be some rigour applied to that, to make sure that you are not going to do that and then people who really should not benefit, get the benefit of public aid. Remember this is taxpayers’ money. I do not want to be rewarding criminals. I would not like to be part of that.

7.25 p.m.

Mr. Vice-President, this is going to be a part where I repeat, and I come to probably an unpopular view, but it is a view that I continue to hold. I raised that view last night, and I am going to raise it again. I think we need to address the systemic portion of this.

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And I have a thesis, we must take further decisive action to fundamentally and comprehensively address what I consider to be one of the key—one of the parts of the root causes of this debacle. And part of that root cause is the commercial banking sector, that I say, is choking off the flow of affordable credit and meaningful deposit interest payments.

When you—it creates an environment that is ripe for somebody with the wrong attitude, that you know the commercial banks give you virtually nothing. You want a loan, you have to jump through several hoops. You open an institution and say well, make loans easy, and we have to find a way that, I think, the spread is too wide. It is too wide between what the banks lend you at, and what they give you. It is simply too wide. There has to be a way to close that gap. Why should a credit card interest rate be 29.99 per cent? That is one of the highest in the world.

Hon. Senator: That credit card really bothering you.

Sen. D. Small: Yeah. It is bothering “meh” because I know it is amongst the highest in the world.

Hon. Senator: It is unacceptable.

Sen. D. Small: Yeah, it is unacceptable. So that there needs to be some regulation going in there to help to protect the citizens. I believe that the Government has failed, failed citizens on that. We have failed. Yeah. And we must address this part of the underlying problem to bring some levelling of the financial market and institutions, so that they can properly and fairly perform their mission of supplying future prosperity and growth to the country. I made the point last night, we have \$75 billion sitting down in banking institutions earning nothing. Why? Because the hurdle rate to get a loan is just too high; it is too high. Money is actually losing value in the system, and we need to find a way to try to address that. And there is more than one way, there are many models.

I want to reinforce the point about the tax-free bonds. You know, one of the points made earlier is that the HCU really took off when the Caroni workers got their lump sum payments.

Hon. Senator: VSEP.

Sen. D. Small: Yeah. That was good. They got the payment, and this is money that they were thinking, we need to find a way to make sure that money provides for retirement going forward. You go to the bank, you get less than 1 per cent. So they know that with inflation they are losing money; they are losing

money. Where do they go? There is nothing else for them. Tax-free bonds would have been an ideal situation for them to invest in to make sure to preserve their retirement. And the Government again continues to fail us on that. I feel that is such an easy fix.

The banks are taking the bonds, and they alone are making the money along with the other corporate investors who are making the money. And I have no concern or problem with the corporate investors making money, but allow the citizens to make some money too. That is all I am saying. Give us the opportunity, those of us who would like to invest in these instruments. And I really do not understand why it is not happening in that way.

And I think, Mr. Vice-President, that the issue of regulation here is key. You know, HCU failed, but I have also recognized that CIB failed almost on the same basis. They were both taking in lots of money and offering high interest rates. But the problem was taking in money, but what were they doing with the money? Yeah. They were both companies, organizations that were taking in huge amounts of money, but then the money was being mismanaged in a Ponzi scheme. They were taking the money and doing speculative investments or going to—what is it?—Gold Rush? Going to Gold Rush. Flying first class and living the champagne lifestyle. And there is a failure of regulations somewhere in there, and we need to drill down and understand what was the failure of regulation. Because that is how we ended up there. Money goes in and it is supposed to be invested in appropriate vehicles, but it is invested in Gold Rush. Yeah. And that is what happened.

We have had a spectacularly, innovative individual running the Hindu Credit Union—*[Interruption]*

Hon. Senator: Not invest in gold.

Sen. Vieira: All that glitters is not gold.

Sen. D. Small: He facilitated and participated in leading a whole section of the population into unnecessary stress. And people have been unnecessarily stressed out because they have lost the value of their savings over a long time.

And on that basis, the compassionate person that I am, and I support the Government's view on it, that we should try to make sure that we assist them as best as the Government can, and I am fully supportive of the Bill, but we need to make sure it does not happen again. So there is more than one way to do this. We need to address the regulation. There needs to be, as my colleague Sen. Mahabir said, we need to find a way to manage these Ponzi guys. I am not the economist

here. I defer to the learned Senator, but there are too many people in Trinidad and Tobago—such a small country—who became very creative at taking people's money, and then they pay no penalty; they pay no penalty. They walked away and lived the good life; and it is just amazing. It seems that white collar crime does not exist.

Sen. Hadeed: Golden Grove for them; jail time.

Sen. D. Small: Well, all right. People do not pay taxes. [*Crosstalk*] Yeah. So that we have said this ad infinitum with several different types of legislation. We do legislation on the books, there is a systemic failure of enforcement. The Minister of Energy and Energy Affairs and I have been talking a couple of days ago, and someone raised the issue of the quarries. There are lots of regulations on the books. The problem is the enforcement, and there is actually a risk to life and limb regarding the enforcement. Yeah. So, I mean, a very real risk to life and limb. It is not that, the regulations are not on the books that can manage this, but the enforcement is not happening in the way it is supposed to happen. So we need to find a way to fix those things.

And it applies in the same way in which—here; you had a fundamental failure of the head of the cooperatives division who, for whatever reason, whether he did not know or for whatever, he was the person on watch, and this happened, and then there is no penalty. So that we need to find a way to finally apply the penalty. You know, there is always the adage where the average Trinidadian will do all sorts of things, and as soon as you put them on an aircraft and go to another country, they fall in line immediately with whatever the rules and regulations are. Why? Because they know if they flout the law, the penalty will be applied, and will be applied consistently, probably even more harshly.

So that we—I am not sure we are going to fix that, but I want to belabour that point, and I want to say one more plug, Minister of Finance and the Economy, I know you have many things on your plate. I do not envy you. You have many, many things on your plate, but I am making an appeal to you to really consider trying to make sure that the citizens of this country who have a little extra money and want to put aside some money for their children—We had the SEA results today. I have two boys, next two years, back to back. I am in SEA. I have two boys; one doing SEA the year next year, and SEA after that. I am in SEA mode for the next two years.

Sen. G. Singh: SEA is the best form of contraception. [*Laughter*]

Sen. D. Small: I have no additional comment on that. [*Laughter and crosstalk*] But it would be a good gift as a parent to say listen, I have given you some bonds to start you off on your college career. And these are the things you would like to do, but these bonds are simply not available. Why is it only one sector of the economy it appears has access to these bonds? Tax-free saving bonds should be available to all and sundry, and I am

belabouring that point. I am repeating it at every chance that I get, and whatever Bill, I am going to raise it again until we get some type of formal response from the Government that, at least, you are going to look at it. Because I believe it is a way to deal with this that happened here.

HCU, when the workers at Caroni got their pay-off, and they could have gone and invested their money and they got proper advice from the company, and they said listen, go and invest in tax-free bonds, HCU may never have happened, or this may not have happened on the scale that it happened. It was just a failure of the system. You could not get any proper returns from the bank, the only institution that you could go to, that gave you some kind of exciting looking return, was the HCU.

So then, Mr. Vice-President, this is a Bill that I have no problem supporting. I think that the Government has taken this action to protect the citizens of this country who were exploited by extraordinary, brilliant—but in a negative way—individuals, who took their money. “Smart men”, conmen took their money and did all sorts of “gold things with them. But I also want to say that, in taking this action, the Government must also take remedial action, that while we fix it—we fix the immediate issue—we need to understand that we do not want to be dealing with this again. And to make sure that citizens of this country have the opportunity to enjoy the fruits of their labour, and can understand that they can have their little capital grow also in a relatively safe vehicle. As it is now, I leave my money in the bank, I get nothing. I mean, it is nothing.

Sen. Vieira: Small change.

Sen. D. Small: My mother was 70 yesterday and she told me this: She got her bank statement and her credit card statement the same day. She owes on the credit card about \$1,200, they charged her like 40-something dollars interest on it. Well she was appalled because she has several thousand dollars in cash, and she gets three cents interest. So she is, “how could I have X thousands of dollars and I am getting three cents interest, and I am owing \$1,200, and you are charging me 47-whatever”. She is like—something has to be wrong with that.

Sen. George: You have to pay them to keep “yuh” money.

Sen. D. Small: You have to pay them to keep your money.

Sen. George: That is what they are doing you now.

Sen. D. Small: Something, Minister of Finance and the Economy, is wrong with that. It is a disincentive to savings. It is a disincentive to savings. I have lost confidence because I, my personal experience is that there is a lack of competition or there is probably a lot of collusion. I “doh” want to—I am not sure what it is. But for so long as this continues you make it a happy hunting ground for people who find ways, to create ways, to take people’s money creatively.

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Because you know you are not going to get any money in the banks, you have no access to bonds, so what do you do with your money? If you put it in the bank, you lose, you effectively lose because even at the inflation rate of 3 per cent, you lose. Your money loses value. So, I think that the Government in its plan, in its thinking to say listen, we recognize that this is a challenge for citizens, this is something that we could do in a small way—in a small way—to help the citizens of this country to protect their little hard-earned savings. Mr. Vice-President, I thank you for the opportunity. [*Desk thumping*]

Sen. Elton Prescott SC: Thank you very much, Mr. Vice-President, for this opportunity to contribute to the debate on the Purchase of Certain Rights (HCU) Bill, 2014. Mr. Vice-President, I learnt that my colleagues were here until quite early this morning—[*Interruption*]

Hon. Senator: Oh, yeah, we did not see you. [*Laughter*]

Sen. E. Prescott SC:—and so empathy drives me to be very brief in my contribution. [*Laughter*]

But I do wish to start by making the observation that quite a number of those who have spoken contend that this is a Bill to help poor people, and I did not think so when I read the Preamble to the Bill. The Preamble actually speaks of the Minister being able to offer relief to the shareholders and depositors of HCU whose principal balances exceed \$75,000. And \$75,000 as principal balance, according to this definition of principal balance, really means there is a net of \$75,000. So these are people who have invested more than \$75,000. I do not regard \$75,000 as the sign of a poor person in Trinidad and Tobago. Poor people in Trinidad and Tobago are people who do not know what it is to put their hands on \$75,000. There may be many of us here who deal with it every night in Ma Pau, et cetera, and think nothing of it. [*Laughter*]

So that I am inclined to say that this is really not a Bill to assist poor people only. It certainly does assist those who had deposited. And we know because there has been extensive public debate surrounding the collapse of the HCU, and we saw in the media those who would appear, from both sides, who spoke of having lost all of their savings, and then there were those who said, “I really moved a great sum of money from X institution into this credit union” for whatever reasons. And people were talking millions of dollars. With my limited access to finance, I think, that \$2 million or more was high, but I am sure that there were people who were way in the stratosphere who had put their money into the HCU for reasons which were peculiar to them. These people are also going to benefit from this Bill—and I place that on the record.

You may recall that the Secretary General of the Maha Sabha was very, very concerned when, and I suspect this would have happened, when his institution began to feel the drift of money away from people who mattered to him, from institutions that mattered to him, into this Hindu Credit Union. And he was not talking about small money and necessarily about poor people, he was talking about people who could afford to put money in the HCU because the HCU was offering them substantial profits on their saving. And it is not unheard of that people will go after high interest rates. It is a fact that they may not always know enough about risk, and about how to use their money, but the attraction of 10 or 12 per cent when all else is at 1 per cent and two, cannot be downplayed.

7.40 p.m.

So, I do not call that greed, but I am sure that others would agree with me that what we saw on display in the Hindu Credit Union was uninhibited greed on the part of those who led it, characterized, of course, by Mr. Harry Harnarine, who patterned himself—and he said it openly—on lines that he thought Mr. Lawrence Duprey had adopted. He may not have had the same finesse, he may not have had the same access to the corridors of power, but he led us to think that he did.

In fact, we heard today from, I think it was Sen. Dr. Henry or someone else who read a newspaper article, that he did find himself in the corridors of power and he fuelled those parties with his largesse, and political connections continue to count. So that, when we talk about the Hindu Credit Union—I only wish to put on the record that it is not necessarily the poor who has suffered, there were persons with substantial amounts of moneys, persons in positions of power in this country who invested their money there and they are equally going to benefit from it.

Let me pause here to say, I am not against this Bill, I am supporting it, but I think we need to focus on that. Now, as is my usual style, I have looked at the “*linguaging*” of the Bill and I think that the hon. Attorney General and the Minister who piloted this Bill might want to address these issues that I am about to raise.

In the Bill there is a definition of “*depositor*”, and it speaks to something called the “*normal or special deposit*”. I am not seeing here where the Minister is empowered to make payments. It really would be a more clear statement of the law if it were able to say make payments for what purpose. The purpose set out in clause 3 is this:

“...for the purpose of purchasing the rights, benefits, titles, estates or interests belonging to the shareholders and depositors of HCU.”

But if you go back up to the definition of “*depositor*” you would see a better framing of the legislation. It says:

“benefit, right, title, estate or interest in a normal or special deposit...”

So that, clause 3 could be enhanced by saying:

“The Minister may make payments in any form whatsoever including the issue of bonds for the purpose of purchasing the rights, benefits, titles, estates or interests in normal of special deposits.”

So that we know that it is that that he is limited to and he cannot simply go out there and purchase their titles or estates or interests, because they belong to the shareholder.

It needs to be more directly pointed to the purchase only of normal or special deposits. I trust that that point would resonate with the Minister and with the Attorney General. The Minister also—it seems that this is intended to permit him to make offers to persons, and no limit is placed on the persons to whom the Minister may make the offer. I am sure that the intention is that these offers should be made generally and not ad hominem, if I may cite colleagues’ use of the term.

If it is that the Minister is intended to make those offers to all persons who have principal balances above \$75,000, then there needs to be a clarification of the persons to whom he may make the offer and the methods by which the offer should be made. It could not be that a telephone call would suffice. One may well say that the answer is to place it in the regulations, and I would be satisfied with that, but we do need to be a bit more specific in our language about the offerer and how he is to give effect to his offer.

Thirdly, the Minister has a sort of discretion which could be troubling in the hands of a less astute, less dependable Minister.

In clause 6, we note that:

“The Minister may”—and he may do so—“by Order, designate—
(b) a financial institution,
as the Fiscal Agent under this Act.”

Hon. Senator: What clause?

Sen. E. Prescott SC: Clause 6. Am I—*[Interruption]*

Sen. Young: Clause 6, “The Minister may, by Order, designate...”.

Sen. E. Prescott SC: Yes, “may, by Order, designate—
a financial institution,
as the Fiscal Agent under this Act.

The Fiscal Agent shall—
establish and maintain a register of the holders of bonds; and
promptly pay”—*[Interruption]*

Sen. Young: That is clause 7.

Sen. E. Prescott SC: Well, I am looking at a “long time” iPad. Okay. You have the correct one? Let me see. But, I hope the language is the same? It is probably an old iPad. Thank you. [*Laughter*] Something else has gone in there that I did not see.

Sen. Young: Correct, you are looking at the House of Representatives one, not the one that came back from the House.

Sen. E. Prescott SC: Thank you very much. Thank you, Mr. Vice-President. So, where I have said 6, I should have been saying 7. The point remains, however, that I am urging that the Minister’s discretion should not be unlimited as to how he is to arrive at the beneficiary financial institution.

I am certain that this financial institution is one that would earn some profit out of its involvement as fiscal agent, and therefore, I would recommend that the Minister’s power to identify and to designate the financial institution should be circumscribed by legislation, and that there would not be an uninhibited discretion left in the Minister. It may also include, if I may recommend, that there ought to be some provision for a reporting to Parliament—now I suspect that the Minister would clear it up for me later on and say, “well, I do have to report, maybe annually or something”. But, here I am thinking that if this legislation had gone on to say that there would be a report to Parliament on how much money—let me put it differently—how many bonds, and to what value, had been issued pursuant to this Bill, that would engender a greater spirit of transparency and confidence within the society that what is being managed is managed to their benefit.

Speaking of benefit, I do wish to repeat what I think I have heard, that one ought to be told what steps are being taken to recover loans and other liability mentioned in the Act and, of course, to redirect such proceeds into the Consolidated Fund. And I support those who would urge the Minister to clear up for us if such steps are being taken, and confirm that it would be paid into the Consolidated Fund.

The point needs to be made too, since the order of the Commissioner of Co-operatives for the winding-up of HCU that some safeguards need to have been put into place to prevent the spiriting-away or the haemorrhaging of assets, I have not heard—and I was not here when the Minister was leading off—I have not heard if there are safeguards in place to prevent the spiriting-away of the assets. These assets really ought to be preserved, once again, so that they may be of credit to the Consolidated Fund. So, Minister, I am presenting this thought for your consideration in the hope that you would address it to the satisfaction of myself and those who are concerned about it.

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May I then finally move to the point which I think needs to be made? Insofar as it has been suggested repeatedly that there is some similarity between Clico and the HCU, I think it is clear that today's Clico and HCU are different, in that Clico is reported to have assets, but the HCU apparently has little or none, and we are really probably just providing another welfare situation, unless the Minister can satisfy us that there are enough out there of loans and liabilities which would come to the benefit of the Consolidated Fund in the long run.

There was—Mr. Minister, I hope I am putting this forward—at the time that Clico was very much on the front burner, legislation passed to freeze the running of time for bringing action, the limitation period was frozen.

Sen. Al-Rawi: The Finance Act, 2012.

Sen. E. Prescott SC: I am told it is in the Finance Act, 2012, which has recently been restored, to the best of my knowledge. If indeed, four years have not yet passed, then a step ought to be taken immediately to ensure that time either does not run or that all actions can be proceeded with, with a view to making full recovery where it is possible to do so. So, Minister I would urge you to also look at that and address the Senate on how you propose to deal with that.

I think I did express a view that this really does not qualify as ad hominem legislation. I trust that my colleague Sen. Al-Rawi would have revisited it and taken a different view.

Sen. Al-Rawi: I was taking Sen. Maharaj out of having created it—[*Inaudible*]

Sen. E. Prescott SC: I see. It is because I arrived here late.

Mr. Vice-President, in those circumstances, I bring an end to my contribution and I thank you very much for the opportunity. [*Desk thumping*]

The Minister of Finance and the Economy (Sen. The Hon. Larry Howai): [*Desk thumping*] Thank you, Mr. Vice-President. Okay, it is amazing how many questions nine clauses can raise, and they were not nine long clauses. You know, sometimes when my learned friends in the legal profession, they give you a conveyance or a debenture—[*Interruption*] Yes. They start with the first word, and the first comma does not appear, or you only see a full stop at the last page.

Sen. Al-Rawi: Page 26.

Sen. The Hon. L. Howai: Yes, you see the first full stop. But this was not the—these particular clauses are—[*Interruption*—they are quite short, so I am quite surprised that—[*Crosstalk*—yes. You know, it is something that I suppose we have to

bear in mind that, I suppose, we have to be protected from all sides, from the people like the Harnarines as well, perhaps, as well as from some members of the legal profession.

Sen. Al-Rawi: True. True.

Sen. The Hon. L. Howai: I need to bear that in mind. [*Laughter*]

Sen. George: And economists too.

Sen. The Hon. L. Howai: And economists too. [*Laughter*] Well, I would not want to keep growing that list, we would not be able to move the economy forward.

Mr. Vice-President, as we had indicated, the legislation is intended to make good or for us to purchase certain rights belonging to shareholders and depositors of the Hindu Credit Union Co-operative Society Limited and, as well, to empower the Minister to make payments and issue bonds for the purchase of those rights.

The HCU, as I had indicated, went into liquidation in 2008, that would be about six years ago, roughly, getting close to six years ago, and as had been pointed out, the whole process of us getting to the point where we can close off this matter, settle all of the liabilities, and indeed, recover on the funds that the Government needs to put out, has actually gone, perhaps too slowly over the period.

The liquidator has found himself stymied by a number of legal actions which had taken place, by injunctions and, of course, we have the Colman report and, perhaps, out of respect for the fact that the decision had been made to establish the Colman Commission of Enquiry and, perhaps, to avoid, maybe, prejudicing in any way whatever statements would be made out of that.

I have basically an indifference to it. I have basically stayed away from, perhaps, a lot of the juicy details that would, perhaps, have regaled this entire Senate for quite some hours in terms of the number of instances of malfeasance that would have taken place over the period of time when, perhaps, if I can use the word, the buccaneers were in charge, you know, Sir Francis Drake and Sir Henry Morgan and so on, seem to have taken hold of the institution.

7.55 p.m.

So, I think that is something that we have to bear in mind and I have been very conscious of it, in just skirting really, and just referring in passing to some of the issues that had come up during the course of the debate, and even during the

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course of us looking at over the years. There are, I mean, very detailed reports coming out of the Ernst & Young audit, for example, which had identified, I mean—you know, it makes the hair or the pores on your skin raise to read some of the infractions that had occurred over the period of time.

But suffice it to say, as I had indicated, that out of about \$900 million in assets, about \$600 million, close to \$700 million is actually unrecoverable. So you are really talking at best 20 cents on the dollar. And one of the things that, you know, as you look at what has happened with respect to the financial sector in Trinidad and Tobago, and I have just happened to be around when a lot of this happened in the days of SWAIT and Summit Finance and so on, and then coming through the co-operative bank and then through Workers' Bank and then the restructuring that gave rise to First Citizens Bank and so on, through DFL and so on, 20 cents seemed to be the number that keeps coming up all the time. [*Crosstalk*] It just, yeah, it is either 19 cents or 21 cents but you are in that kind of region.

And a big part of it really is that as we spoke of the issue of the failure of the regulation, a big part of the issue is that sometimes we take too long, we hope that things would work out. Sometimes the regulators do not want to interfere, they do not want to precipitate this crisis. They are hoping that it would go away, they are hoping that something will happen, maybe somebody might win the lottery and put the money back in the institution—[*Laughter*] and that things would turn around. It does not really happen that way. And the important thing with resuscitating or dealing with financial institutions is that you must deal with the problem early. The longer you take the more it compounds and the more difficult it becomes, and then it becomes a snowball, then it becomes an avalanche, and then you are at the bottom of this avalanche and wondering how you got here.

So, it is very important that regulations and the regulator themselves—because it is more than just regulation, it is having people who have the strength of will and of character to take the necessary action as early as possible, because sometimes we say, well, it is politics and the politicians put pressure on the people and so on, but that will always happen. You will always have interest groups that will always have a reason why they feel we should hold your hand in this case or at least just hold your hand long enough for them to get their money out, and then you could do whatever it is you want to do.

So there is always some kind of interest group bringing pressure to bear on the regulator or on somebody, and it is important for the regulator to have strong benchmarks. A lot of that is coming out in the discussions that we are having on the insurance industry, and we started to look at some of the possible benchmarks that we could use for the insurance industry.

So that we take some of the discretion, not all of it, but some of it out of the hands of the regulator so that the regulator in a sense becomes—we build something of a little bit of a wall around the regulator to protect the regulator to some extent from the machinations of all the special interest groups that will always exist in any society, while at the same time, not taking away all of the discretion that a regulator must have in order to ensure that you could take advantage of peculiar circumstances that may arise at any particular time.

So, for example, you do not want to say that capital, if 25 per cent of your capital is eroded, then you must take action, because you may want to take action when 10 per cent is eroded, because you are in an environment like 2008, when the entire global financial system is melting down and you decide that you want to take some pre-emptive action. What the United States Government did in 2009, when everybody was just—there was almost a state of paralysis, people did not know where to go as far as the investment of their funds and placement of their deposits and so on—was that the United States Government decided at one stage to make the bold statement that they guarantee every single deposit in every single bank in the United States. So that no matter who you are, you could put your money into the institution and it will be safe.

It was not a case where the people with the slightest hint of concern, that everybody was lining up to get their money and, of course, as we all know, you see a long line in front of a bank, you take out your money and you just simply fall in line. You are not going to ask what caused the problem, you will find that out as you are going up in the line, but you are not waiting for anybody to get ahead of you.

Those are some things that we need to bear in mind as far as this is concerned. The new legislation that we are bringing to bear concerning the credit union industry, for the regulation of the credit union industry, is something that we, you know, while we are receiving a lot of push-back with respect to some aspects of the regulation and the management of the industry, we have simply taken a position that we must have strong regulation in place for the protection of the same people who are saying they do not want regulation or the regulation is too heavy-handed.

[SEN. DR. ROLPH BALGOBIN *in the Chair*]

So these are things that we, perhaps, as we go through the whole process of the credit union Bill, and it is about finished, it is about complete, I think we just want to wrap up some things here, the Colman report; come out, let us make sure there are no further issues that we need to tweak in the legislation before we proceed.

So it is my expectation that we should be in a position to lay that legislation during the course of this year. And once we are able to do that, then I think we will have the kind of regulatory framework that is necessary in order to ensure that the funds of

Purchase of Certain Rights Bill, 2014
[SEN. THE HON. L. HOWAI]

Wednesday, July 02, 2014

persons are protected, and especially remembering that the people who put their money in institutions such as these tend to be the people who are at the lower end of the economic spectrum and tend to be the people who most need the protection of the regulation that we can put in place. Many times, however, we are tempted to say, you know, but these institutions should also be given the most flexibility to do things that would help develop, for example, the micro sector and so on. So you have to find the right balance all the time as far as these things are concerned.

So, Mr. Presiding Officer, you know, the new legislation we expect will be coming to the Parliament during the course of this year. One of the things we also have to bear in mind is that financial crises are a recurring theme of economies everywhere in the world, and you do not have to go far back to see that. If you look at, for example, in the 1980s, we had the Latin American debt crisis, but at the same time we had the savings and loans crisis towards the end of the late 1980s in the United States—a major crisis in the United States. In fact, while we here in Trinidad and Tobago had done the restructuring of Workers' Bank and so on, Citibank was under the control of the Comptroller of the Currency at the time in the United States, still trying to come out of the last stages of the Latin American debt crisis in the late 1980s. When they came out—I think Citibank came out of that somewhere around 1991 or 1992—they were eventually released from under the control of the Comptroller of the Currency in the United States.

And when we thought that we were behind the Latin, they had the savings and loans crisis in the US behind us and the Latin American debt crisis behind us, we got into the Mexican debt crisis with the Brady bonds and so on—[*Crosstalk*] you know, “tequila” as they say, right—the tequila crisis. And then right after that when we got past that, we had the crisis in the Far East, when Indonesia, South Korea and a number of countries in the Far East had their financial systems melting down, and then they had to deal with that. And then we said, well, the 1990s are now behind us and 2000 is a good time, and before we knew it, 2008 we had the crisis in the developed countries which we are still trying to get over.

[MR. VICE-PRESIDENT *in the Chair*]

So recurring financial crises are something that we have to recognize, will continue to occur because financial institutions are inherently risky institutions. You know, most banks, for example, have a debt to equity ratio of 20:01. There is no bank that will lend to a company that comes to it with a debt to equity ratio of 20:01, when everybody lends their money to the bank with a debt to equity ratio of 20:01. I mean, banks had only 5 per cent capital at one stage, capital and reserve funds needed only to be 5 per cent of total liabilities, deposit liabilities.

That has since changed and now you have the Basel requirements and so on, where you have the 8 per cent and they are trying to move that up, and they want to add capital for operational risk and so on. So we have started to increase that, but even so, there are many financial institutions today which do not even meet the minimum criteria. For example, Citi in the United States just recently failed the Federal Reserve stress test about two weeks ago.

So they have to continue to monitor that situation, and everywhere in the world you have to continue to monitor the situation and put strong regulation in place, and that is why you have regulators for financial institutions because of the risk of these financial institutions. You do not have regulators for supermarkets, you do not have regulators for shoe stores and you do not have regulators for manufactures, but you have regulators for financial institutions, whether it is insurance companies, bank, non-banks, credit unions, as the case might be, because of the very inherent risky nature of these institutions.

Many times in understanding the formulas that we are proposing for dealing with finding the way to get capital from financial institutions into manufacturing and other sectors of the economy, we have to bear in mind the very risky nature of these institutions and the need to ensure that we do not accentuate the level of risk by requesting that these institutions undertake certain kinds of transactions that would further accentuate the level of risk that exists in the institution.

So, it is the need to ensure that there is a proper balance at all times. I am not saying that they take enough risk, there is probably room for them to do different things, but I think the important thing is to understand that we need to balance it to ensure that we do not have recurring systemic crises on an ongoing basis.

With respect to—locally, what we have by way of lending to small institutions, of course, we had Fund Aid some time ago which did not work well and recently we have had the development of MIPED which has been doing very well. And MIPED is really based on the Grameen principle that you had enunciated, Dr. Mahabir, where they lend for microcredit, very small amounts, and it depends on the guarantees—social guarantees to ensure that payment is made, and I myself was actually quite surprised that you are talking 1 per cent and 2 per cent delinquency on these facilities. That is people to whom banks would not normally lend because of the fact that they are concerned about the extent of risk associated with the lending. But that is because the nature of the lending that the bank undertakes is not the nature of the lending that the Grameen institution undertakes, because banks do not have social guarantees—for example, they do not place a value on it and so on. [*Crosstalk*] When I say, it is not— [*Crosstalk and interruption*]

Sen. Ramlogan SC: “Doh let him tie you up, yuh going good.”

Sen. The Hon. L. Howai: Time to stop. You always stop when you are going good, when you are ahead of the game, you know. [*Laughter*] The question had come up with the haircut, and I want to say that there has not really been a haircut being offered to anyone. What we have done is the reduction has been no interest. We have not been paying interest, we have been paying principal and to that extent, yes, we have, to use the term “shaved off” part of the amount that is due, but we have not really reduced principal across the board and other than for related parties where the principal is reduced to zero.

So what we have is, we have done this as I said, along the lines that we did for the Clico transaction which is that we have paid the principal amounts and we have structured the amounts over the amount that—the \$75,000 which had been pointed out at the time, the cut-off point for deposit insurance, and everything above that, we have converted into zero coupon bonds.

8.10 p.m.

We also have put in place for the payments that are being made to Clico, and also for this, we do have a memorandum of understanding which is between the Ministry and the Commissioner of Co-operatives, because the Commissioner of Co-operatives is really the person through whom all the payments—so the liquidator really reports to Commissioner of Co-operatives in a formal sense. Informally, the Ministry of Finance and the Economy does follow up the liquidator to see what he is doing, whether he has money, how much he has collected, what the status of his liquidation process is like and so on.

There is also a memorandum of understanding which sets out clearly—because the payments will be made by the liquidator to the depositors and shareholders of the Hindu Credit Union. We do have a memorandum of understanding which guides clearly all the details, almost like regulations, because we do not have company regulations with this, but we do have very detailed processes for how the payments are made, and all of the definitions in the MOU are tied directly back into this piece of legislation.

There were a few items which were raised as legal issues which we will take during the committee stage rather than trying to go through it again. I believe the hon. AG had raised some of the issues and had discussed some of the issues, but I think as we go through each clause we could probably take, specifically, each of the issues in each clause. So we clear it up rather than my saying so, and we then disagree and agree to disagree.

So, the other issue, of course, is that the importance for us is to ensure that we get back as much as possible from this and that the perpetrators of any wrongdoing, where that is found, will in fact be brought to justice in some particular way. The process does take long. It takes longer than we would like it to take, but it is important that we go through the process, that due process is observed and that we do ensure that the persons who are wrongdoers are actually brought to justice.

So, Mr. Vice-President, with those few words, I would like us to move now directly to considering the matter at the committee stage, and therefore, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Clauses 1 and 2 ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

Sen. Vieira: Mr. Chairman, just one suggestion. In the definition of “Bye-Laws, ““Bye-Laws’ means the bye-laws of HCU”. I am suggesting that we put a definition there, “formerly known as the Hindu Credit Union Co-operative Society Limited”.

Sen. Young: If I may Sir? Mr. Chairman, through you. Sen. Vieira, it is still, as far as I am aware, which was up to the point of the commission of enquiry, it is still the Hindu Credit Union Co-operative Society Limited. They never changed it via an official name change to HCU. So then we should define it and then call it HCU

Sen. Ramlogan SC: The CPC office has advised that it is in the Preamble, and therefore, it is part of the Bill.

Sen. Al-Rawi: And from a drafting perspective, it is okay to have it other than by way of definition and just in the Preamble?

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: Okay. Thank you.

Sen. Dr. Balgobin: Minister, through you, Chairman. Under “related party”, did we want to make an adjustment there from 12 months immediately preceding October ’10 to something a little earlier?

Sen. Ramlogan SC: How far back do you go? I think as a matter of policy because we chose 2008, which is when the—*[Interruption]*

Sen. Dr. Balgobin: No, no, no.

Sen. Ramlogan SC: Yes, it went in liquidation.

Sen. Dr. Balgobin: Okay, fine, but that is not a policy position. The thing is this. The conditions that gave rise to the failures that you saw in the Hindu Credit Union did not occur in 12 months immediately prior to Government—*[Interruption]*

Sen. Ramlogan SC: That is true, but I will tell you why I am comfortable with the time period. Maybe it is a little personal knowledge, but none of the key players had in fact changed. In fact, the key players who were responsible for the status quo at that time were in charge at that particular point. So that the related parties peddling back a year will capture everybody. There was nobody that had left, in other words.

Sen. Dr. Balgobin: So there is no impact by going back two years because you are capturing—*[Interruption]*

Sen. Ramlogan SC: No.

Sen. Dr. Balgobin: So the net is the same?

Sen. Ramlogan SC: Yes, that is correct because there was no attrition at that level to say, you know.

Sen. Dr. Balgobin: No, I had asked the Minister at the time what would the effect be of going to two years back as opposed to one year back. So am I to understand then that the effect is the same?

Sen. Ramlogan SC: It is the same.

Sen. Dr. Balgobin: Well then, I am comfortable with that assurance.

Sen. Young: Mr. Chairman, through you. Hon. Minister, I had raised in the debate stage for the definition of “depositor”. When you look at the definition for “depositor”, there is a lacuna in that we say the offer of Government to purchase same, you told us the date is October 2010. So it is possible for a related party to have transferred his or her rights, et cetera, to a third party prior to October ’10, and then they will now fall under the radar and they can get their funds through the back door.

What I am saying, hon. Attorney General—*[Interruption]*

Sen. Ramlogan SC: Where are you all, sorry?

Sen. Young: The definition of “depositor”, where we say:

“means a person who is the holder of a normal or special deposit in HCU issued in accordance with the Bye-Laws, or in any case where the person has assigned...”

So we are talking about an assignment of—

“benefit, right, title, estate or interest in a normal or special deposit to a third party, prior to acceptance of the offer of the Government...”

And the hon. Minister told us the offer of acceptance of the Government was October 2010. So if a related party transferred his or her deposit or shares, et cetera, to a third party prior to October 2010—so after the date we went in, in 2008—they fall within this band that can be covered and paid out by the Government.

Sen. Al-Rawi: Just for clarification, I am wondering. Is it that you mean insofar as this Bill creates the right for purchase in respect of which something may be given, quid pro quo, that that is the purchase, that is the point of purchase that you are dealing with?

Sen. Ramlogan SC: Yes.

Sen. Al-Rawi: Do we need to define when the offer of Government to purchase? Is it such as Sen. Young has raised, that is, the October 2010; or is it the anticipated purchase on the transfer of rights that you are speaking about? Perhaps that is the confusion that leads to the potential lacuna.

Sen. Ramlogan SC: Well, I do not see a lacuna, but go ahead Larry.

Sen. Howai: Sorry. I did not quite understand the question.

Sen. Al-Rawi: Okay. So, “‘depositor’ means this person...holder”—jump straight down—“prior to acceptance of the offer of the Government to purchase the same...” Right? So did you mean to tie it to the October 2010 as you did in the debate, as the date of the offer by the Government? Meaning, that is when Government made the announcement that they would do it; or is it that this is now the offer which is to come on the purchase of the rights? Because I understand that you can—what you are really purchasing is when it crystalizes. When the liquidator says well okay, as a shareholder or as a member—because it is a different right—you now have an entitlement to 20 cents to the dollar. You are crystalizing that 20 cents, you are topping it up with the bond for \$400 million and you are now saying, “Well, that added amount now is the offer”. Is that the offer you are talking about?

Sen. Howai: No, no, no. We are paying you back 100 per cent of what you—
[*Interruption*]

Sen. Al-Rawi: Your principal.

Sen. Howai:—yes, of your principal balance. We will collect back from you, not from you, but from the company now because we now stand in your shoes—
[*Interruption*]

Sen. Al-Rawi: By virtue of an assignment of rights on a crystalized point.

Sen. Howai: Yes. That is right.

Sen. Al-Rawi: I understand that. So, Sen. Young's position here is whether there is a lacuna that a related party can exercise by saying, “Well look, I transferred prior to the offer”. So what we are trying to do is we are trying to shore up a potential mischief.

Sen. Ramlogan SC: No, but he will still be a related party.

Sen. Young: No, what he has done AG, he is no longer a related party because—[*Interruption*]

Sen. Ramlogan SC: He has transferred it.

Sen. Young:—he has transferred it. So once he transfers it prior to the offer by the Government, that third party is now the person coming forward to the Government to say, “Right, here is what I have.”

Sen. Ramlogan SC: I want to say this. There are many permutations that we will not be able to think about right now and there is nothing as such as perfect legislation. That is why I had made the point when I was asked to give legal advice on this matter, that we have not created any right on the part of the depositor or the shareholder of the credit union that they can enforce against the State, you know.

When we pass this, in the practical administration of this law, Minister Howai in his sole judgment and discretion will still have elbow room for flexibility. That is in fact the advice that both Mr. Martineau and Sir Fenton have given, and it accords with my own view, because we have not created any substantive right to say that any depositor of the Hindu Credit Union could sue us, to say, “You must buy it from me”. So that if a case like that arises, Minister Howai will have the flex to in fact treat with it on a case by case basis. Not so, Sen. Vieira?

Sen. Vieira: Yes, there is a built-in check and balance.

Sen. Ramlogan SC: There is a built-in check and balance.

Sen. Al-Rawi: AG, notwithstanding the legitimate expectation argument and discrimination argument, you see, we are trying to shore up the room for the argument.

Sen. Ramlogan SC: Notwithstanding that, because, you see, there is no question—there is no entitlement to ground a discrimination argument in the first place.

Sen. Al-Rawi: I follow that.

Sen. Ramlogan SC: You follow? So that is why. We have thought it through. In any case, if, for example, Harry Harnarine transferred something to Mr. X and we see that, obviously that is something that the Minister of Finance and the Economy will want to put under a microscope before he decides if to purchase that. You know what I mean?

8.25 p.m.

Sen. Ramlogan SC: So that, you know, I do not think that we are—as I said, we are not bound.

Sen. Young: Okay.

Sen. Vieira: And he cannot be made to purchase this?

Sen. Ramlogan SC: No, he cannot be made to purchase. That is the point.

Sen. Al-Rawi: Thank you, AG. We just want to make sure we—*[Interruption]*

Sen. Vieira: Still on depositors, though, I am just wondering whether the comma in front of “or” should come after “or” in that third line.

Sen. Al-Rawi: After “Bye-Laws”.

Sen. Vieira: “or in any case”. It is a very clumsy, chunky paragraph.

Sen. Howai: It does not change the meaning.

Sen. Ramlogan SC: I am advised that the draftsmen will take a look at it when they are doing the final draft. All right?

Sen. Al-Rawi: That could lead to a consequential amendment, yeah.

Mr. Chairman: Hon. Senators, the question is that clause 3 now stand—*[Interruption]*

Sen. Al-Rawi: Just a quick question, the discrepancy between “Officer” under the FIA, “Officer” under the credit unions legislation, the Co-operative Societies Act, that distinction. One is narrower, the Co-operative Societies Act, and then a little inelegant. Forget the inelegance for now, so long as your advice is that you have captured the breadth that we wish to capture.

Sen. Howai: Yes, I think—

Sen. Ramlogan SC: Yeah, it replicates what is in the MOU so they are satisfied that we have captured it.

Sen. Al-Rawi: Okay. It is just a little oddly drafted.

Question put and agreed to.

Clause 3 ordered to stand part of the Bill.

Sen. Al-Rawi: Mr. Chairman, subject to what anybody else has to say, we have no other observations.

Sen. Young: No, no, no.

Sen. Al-Rawi: On clause 4.

Sen. Young: Just on clause 4, my sole and final observation, Mr. Chairman, is on clause 4 that we are moving to now.

Sen. Al-Rawi: So that was the save point.

Sen. Ramlogan SC: But we dealt with that in the reply.

Sen. Young: No, but I want to raise it at this stage just to mark the record because when you were not here, Sen. Prescott raised the same point which kind of highlighted it for me.

Clause 4.

Question proposed: That clause 4 stand part of the Bill.

Sen. Prescott SC: May I be heard on clause 4, please?

Sen. Young: Mr. Chairman, just briefly, what I had suggested and it is a point that was also raised by Sen. Prescott, but I had also tied it back to your Act No. 17 of 2011 which is your Clico Act, is that the way 4(1) is currently drafted, in my respectful opinion, it is not tied and it is not ring-fenced to what we are referring. So we say:

“The Minister may make payments in any form whatsoever including the issue of bonds for the purpose of purchasing the rights, benefits, titles, estates or interests belonging to a shareholder or depositor...”

Now, I heard what the hon. Attorney General said in the debate but I am suggesting respectfully that all we do is add—and Sen. Prescott came up with a more defined way—after “or interests” we can say “in the normal or special deposits” belonging to a shareholder or depositor of HCU. I think we need to tie it to, I had suggested, shares or deposits. Sen. Prescott spotted in the depositors’ definition, we have referred to “a normal or special deposit”, so we can use that language here. When you look at your Act No. 17 of 2011, in a similar provision, you made sure to tie it at clause 3(1):

“For the purpose of purchasing rights belonging to the holders of STIPs...”

And you went through the painful expressed provisions of defining what STIPs were and we need respectfully to do that here. Because as it reads—and I heard what the Attorney General said about purpose of the Act and purposive interpretation but why would we not just add those simple words here to make it abundantly clear so that there can be no—so I will just put it after “or interests” in the third line of the paragraph, just add “in a normal or special deposit”, and then you continue “belonging to a shareholder or depositor of HCU...”

Sen. Al-Rawi: My only concern—and forgive me, just thinking it through, right?—it is true that we can do purchases of something which is in the form of a deposit”, what about where there may have been entitlements as a result of membership and shares?—so shares/membership. So, shares would be the only membership. I would not want to exclude that right which may be quantifiable in terms of a workout on crystallization.

Sen. Ramlogan SC: You see, listen, remember, also, there are regulations to come with these things and we can flesh out some of these things in the regulations, but bear in mind as well the Minister has to also administer the law.

Sen. Al-Rawi: If you can then, AG, that is comforting.

Sen. Ramlogan SC: But we would rather not make any change to the substantive law. Right?

Sen. Young: I agree, you can do it in your regulations.

Sen. Ramlogan SC: That is right, so thank you very much.

Sen. Al-Rawi: Okay, thank you. But Sen. Prescott—

Sen. Ramlogan SC: Sen. Prescott, sorry, I was trying to bypass “yuh buh dey ketch meh”. [*Laughter*]

Sen. Prescott SC: Mr. Chairman, actually I thought that it really should form part of the substantive here. What is the advantage of placing it in the regulations?

Sen. Ramlogan SC: Well, I mean it is only this.

Sen. Prescott SC: No, all that the legislation set out to do really is to empower him to purchase normal or special deposits—does not give him the power to purchase property or any other thing, it is the interest of those things.

Sen. Ramlogan SC: Well, you see, we prefer to leave it, you create the enabling power a little wide, the Minister will have some flex, and in the practical administration of it, we know where he wants to focus the attention. I mean, remember Government spending money, it is not like if we are going to throw it away or anything.

Sen. Dr. Balgobin: Yeah, but if we are doing it for him to buy shares and certificates of deposits, then we should just say that that is what you are empowered to do. I mean, we are giving you this—

Sen. Prescott SC: Hon. AG, may I just add it again? If you look at it, all it says is that he has this power to make payments, to purchase rights of shareholders. It does not say in what way. We all know what is intended. It is a simple but very effective amendment. It says to purchase—[*Interruption*]

Hon. Senator: You could buy his dog, you could buy his cat.

Sen. Prescott SC: Well, I would not say “dog” and “cat”, but it enables him to purchase rights, et cetera. As it is said in the definition section: “in a normal or special deposit to a third party...”

Sen. Dr. Balgobin: You see, Minister of Finance and the Economy, it is always a case too that particularly in the Senate, the person there does not always have to be a person there.

Sen. Ramlogan SC: I hear you. Sen. Prescott, listen, what I want to do with this—I hear you on it, but you will agree with me that if we give a commitment now on the record that we will, in fact, craft the regulations to clarify and limit it to capture just the issue you have raised, which is you really want to capture their interest qua shareholder or depositor in the Hindu Credit Union, I mean that would also suffice, you know.

Sen. Prescott SC: No, it does not suffice.

Sen. Robinson-Regis: AG, could I ask what are you seeing as your difficulty in putting in that? Why do you not want to put that in as an amendment?

Sen. Ramlogan SC: I will tell you why. Because one—[*Interruption*]

Sen. Dr. Balgobin: Because you have an aversion to amendments. [*Laughter and crosstalk*]

Sen. Ramlogan SC: No, no, no.

Sen. Al-Rawi: AG, before you answer and we are just having an open discussion.

Mr. Chairman: Senators, please, please, I know that we are in committee stage but therefore, it has to be recorded and everybody is speaking at the same time. I would like you to conduct yourselves and pose the question and then I will ask you to do it. Who is doing it now?

Sen. Robinson-Regis: I asked the question.

Mr. Chairman: Sen. Regis-Robinson, go ahead.

Sen. Robinson-Regis: Thank you very much, Mr. Chairman. Attorney General, I am asking the question, why is there an apparent difficulty on your side with putting it in now especially since you are quite prepared to put it into the regulations? Is there a difficulty with putting it in now?

Sen. Ramlogan SC: Yeah.

Sen. Robinson-Regis: Because the thinking is that it seems to clarify specifically what you want to refer to, what you are referring to. For our side, we see no difficulty in using that kind of clarity so could you explain?

Sen. Ramlogan SC: Yeah. The explanation is simple. I do not think it is necessary to put it in because on a purposive construction of the legislation, I simply do not see how it would be proper to construe it as referring to anything outside of the interest of the person except qua depositor or member of the credit union, and the deposit that they would hold there.

Now, we are saying that for the record, it is an aid under the *Pepper v. Hart* rule, as Sen. Al-Rawi reminds us, it is an aid to construe in the statute that this is what the intention of Government is, and I really do not see that it is necessary, certainly as well, in the practical administration of the law. I mean, you know, it is not that you are going to buy if they own land in America, it is really limited, it is a bailout, when I say—it is not a bailout, it is a compassionate relief being provided by the Government to the victims of a failed credit union for the purpose of bringing limited financial relief to them for the loss that they have sustained in their capacity and by reason of their investment in the credit union?

Sen. Robinson-Regis: So you are saying that the surrounding clauses are sufficient enough to contain it?

Sen. Ramlogan SC: Yeah, that is right.

Sen. Robinson-Regis: All right. Thank you.

Sen. Al-Rawi: AG, my one concern, in support of what you are saying actually, is that limiting or fettering the clause just to the traditional rights which we think it is, may have an issue insofar as—

Sen. Ramlogan SC: The rights, dividends and all sorts of things. Yeah.

Sen. Al-Rawi: Yeah, exactly. The 20 cents to get back may have a broader interest than just the core issues.

Sen. Ramlogan SC: Yes, yes.

Sen. Al-Rawi: For instance, a failed—*[Interruption]*

Sen. Ramlogan SC: Which is why I want to leave it a little broad and I prefer to deal with it in regulations.

Sen. Al-Rawi: On reflection, probably, I think that that is the right approach.

Sen. Ramlogan SC: Well, thank you.

Sen. Al-Rawi: I am just thinking it aloud. I see the merit in my colleagues' points, both my colleagues and learned Senior Counsel as well. But I am wondering if there was a failed security, a mortgage I wanted to get, there was an equitable transfer, it was not yet vested, would I want to affect that asset itself? So I am thinking, maybe, there is merit in that approach.

Sen. Ramlogan SC: Yeah, “yuh” thinking too much.

Sen. Young: Mr. Chairman, just my last point and it is just really to mark the record. You know, I have come here on a few occasions and I hear a saying that no law is perfect law and we can always not pass perfect law, et cetera. I just have a problem with that because if we are at a committee stage and we are seeing flaws that are obvious flaws to us and we are pointing the flaws out, I do not think, respectfully, it can be an answer that “no law is a perfect law”. Because if we can make the amendments now to better it, I think that is something you should give consideration to. Thank you.

Sen. Ramlogan SC: That is noted, Sir.

Sen. Dr. Balgobin: My difficulty, Attorney General, is this: I was saying to you and I will say to the Minister of Finance and the Economy, particularly in Senate, one lives at the edge of one's seat. One does not occupy ad infinitum the

office one now holds. And we are here in support of what you are intending to do and you have explained what you intend to do and most of what you intend to do is in this document, in the proposed legislation.

But, what we do not want is for somebody to go off and do something willy-nilly with this power that we give. I understand the corollary that Sen. Al-Rawi has put forward. But surely we can find a catch-all phrase to capture that and to limit this in some way to the thing that we have just had the debate about.

Sen. Ramlogan SC: Yeah, but Sen. Balgobin, with the greatest of respect, I simply do not think it is necessary. I mean, I have considered the point but I prefer, for a variety of reasons, to leave it as wide as it is. Sen. Al-Rawi is correct when he cites one example of a permutation with respect to the dividends that might be payable. There may be other permutations. I am saying this as well because there is a wide variety of instruments that the HCU used to offer. [*Crosstalk*] Yeah, yeah—no, no, there is.

Sen. Dr. Balgobin: But we have been in control of this thing for six years now, Attorney General.

Sen. Ramlogan SC: Sure, sure, sure.

Sen. Dr. Balgobin: We should know what the universe of possibilities looks like.

Sen. Ramlogan SC: We do and that is why we are crafting it in a wide way so as to not restrict the Minister because there may be—[*Interruption*]

Sen. Dr. Balgobin: But that is not what was presented to us in the debate, eh. Not to have a next debate now.

Sen. Ramlogan SC: No, no, no.

Sen. Dr. Balgobin: But it is just to say this thing was brought forward on the basis that there are shares and there are certificates of deposit.

Sen. Ramlogan SC: All right, look, we have taken—[*Crosstalk*] No, no, on this matter, we considered it, and we have taken the advice of the Chief Parliamentary Counsel department and we are content to rest as is.

Sen. Dr. Balgobin: Tell me what is the advice.

Sen. Ramlogan SC: The advice is that on a purposive—I will repeat the advice for you.

Sen. Dr. Balgobin: What does “purposive” mean?

Sen. Ramlogan SC: Purposive means in interpreting a statute, one has to have regard firstly to the purpose of the legislation. What is the purpose? Now, if you ask yourself that: what is the purpose of this legislation? It is to bring some limited form of financial relief to the victims of a failed credit union and the relief that is being brought is spelt out in the legislation. That is the purpose.

Now, when you start from that, you will understand that the accent is on the relief being brought to the members and depositors of the credit union in that capacity who have suffered loss by reason of and by virtue of their investment in that particular institution.

8.40 p.m.

So that being the purpose of the legislation, it would be difficult to go outside of that and the purposive construction will only lead us inescapably in that direction because that is the purpose of the legislation. In fact, if one looks at the Explanatory Note, it says it and if one looks at the Preamble, we have it:

“An act to provide for the purchase by Government of certain rights belonging to shareholders and depositors of the Hindu Credit Union Co-operative Society Limited; to empower the Minister with responsibility for finance to make payments and issue bonds for the purchase of those rights and for related matters.”

So, the Government is content with this.

Mr. Chairman: Are we okay?

Sen. Prescott SC: Mr. Chairman, would you just permit me to put on record that I am not satisfied that I have heard a sufficient explanation for not including it in the enabling part of the legislation. I do not know that I understood the example given by Sen. Al-Rawi, but if that creates another category of rights or interests then either it is not contemplated by the legislation, that particular category, and if it is and it is capable of another appellation, let us put it in. If there is another category that is capable of another appellation, put it in. [*Crosstalk*] The movie starts at 8.45?

Sen. Ramlogan SC: I have long abandoned hopes of that. Chair, I am normally one to accommodate the views of my learned friend, Sen. Prescott. On this particular instance, unfortunately, there will have to be a settled divergence of legal opinion. May we proceed?

Question put and agreed to.

Clause 4, ordered to stand part of the Bill.

Sen. Prescott SC: I should be recorded as saying no.

Sen. Al-Rawi: Sen. Prescott said no and I join with him, no.

Mr. Chairman: You said no?

Sen. Ramlogan SC: Yes, three people said no.

Mr. Chairman: So, we put it to the vote?

Sen. Prescott SC: We may proceed, Chairman.

Question put and agreed to.

Clauses 5 to 8 ordered to stand part of the Bill.

Clause 9.

Question proposed: That clause 9 stand part of the Bill.

Sen. Prescott SC: Mr. Chairman, I wish to be heard on clause 9, and to make some recommendations for inclusion among the things which may form or for which regulation may be made. One of them is for the designating of a financial institution. I had expressed the view that I did not like the liberty that was given to the Minister to designate a financial institution without there being some clear rules as to how it was to be done, and I would say that although I was at first inclined to insist that it forms part of the substantive legislation, there should be, in clause 9, the regulation-making power to include such a reference.

Secondly, there is no reference in the substantive legislation to offers being made, but the Preamble contemplates offers being made. And so, if it were possible, and I think it is, regulations should also be made to determine how an offer should be made so that we would all know that an offer had been made within certain confined criteria.

Sen. Ramlogan SC: But Senator, when one reads clause 9:

“The Minister may make regulations for carrying out the purpose and provisions of this Act including...”

Sen. Prescott SC: Yes.

Sen. Ramlogan SC: So that it does not preclude him from doing that.

Sen. Prescott SC: No.

Sen. Ramlogan SC: So that, when they are drafting the regulations, if they think it is necessary I have no doubt that they will have regard to that.

Sen. Prescott SC: Very well. So that the fact that I have raised it would come to the attention of those who are drafting.

Sen. Ramlogan SC: And we are grateful to you, Sir. Thank you, very much.

Sen. Vieira: And on the subject of regulations, I see that the regulations shall be laid in Parliament. Is this subject to negative resolution and should that be stated?

Sen. Ramlogan SC: No.

Sen. Vieira: You do not need to say it?

Sen. Ramlogan SC: No, we do not need to say it.

Sen. Vieira: All right. I just wanted to find out for myself. The other thing I wanted to ask is, I have two other suggestions; they are not in clause 9.

Mr. Chairman: Sure.

Sen. Vieira: One was I feel that there should be some sort of reporting function at the end of the exercise, that some report be laid before Parliament.

Sen. Ramlogan SC: I see.

Sen. Vieira: And then my other suggestion is that, we know that there is a big disconnect between the money that can be recovered, but such money that is recovered should be paid into the Consolidated Fund.

Sen. Ramlogan SC: Well, I believe if any money is recovered, it automatically goes into the Consolidated Fund.

Sen. Vieira: It does not say that. It should actually say so, I think, in the Bill.

Sen. Ramlogan SC: No, you do not need to say that. I will tell you why. I learnt this the hard way. The financial regulations that exist, the Permanent Secretary—it goes in the Consolidated Fund; it does. It is an automatic thing.

Question put and agreed to.

Clause 9 ordered to stand part of the Bill.

Question put and agreed to.

Preamble approved.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Question put: That the Bill be now read the third time.

Sen. G. Singh: Division.

The Senate voted: Ayes 27

AYES

Singh, Hon. G.

Coudray, Hon. M.

Ramlogan SC, Hon. A.
Howai, Hon. L.
Griffith, Hon. G.
Hadeed, Hon. G.
George, Hon. E.
Tewarie, Hon. Dr. B.
Bharath, Hon. V.
Moheni, Hon. E.
Maharaj, Hon. D.
Ahmed, Hon. R.
Ramnarine, Hon. K.
Burke, Abp. B.
Smith, Miss K.
Robinson-Regis, Mrs. C.
Al-Rawi, F.
Henry, Dr. L.
Baldeo-Chadeesingh, Mrs. D.
Cudjoe, Miss S.
Young, S.
Balgobin, Dr. R.
Prescott SC, E.
Mahabir, Dr. D.
Vieira, A.
Small, D.
Roach, H. R. I.

Question agreed to.

Bill reported, without amendment, read the third time and passed.

Adjournment

Wednesday, July 02, 2014

ADJOURNMENT

The Minister of the Environment and Water Resources (Sen. The Hon. Ganga Singh): Thank you, very much, Mr. Vice-President. I want to thank all Senators for participating in this marathon session here today and having achieved unanimity I really want to congratulate all. [*Desk thumping*]

With that in mind, I now move that the Senate do adjourn to Tuesday, July 08, 2014 at 10.30 a.m., when we will resume debate on an Act to amend the Judges Salaries and Pensions Act, Chap. 6:02 and an Act to amend the Retiring Allowances (Legislative Service) Act, Chap. 2:03.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 8.53 p.m.