

SENATE

Thursday, June 30, 2022

The Senate met at 2.30 p.m.

PRAYERS

[MADAM PRESIDENT *in the Chair*]

**LEAVE OF ABSENCE**

Madam President: Hon. Senators, leave of absence has been granted to Sen. Jayanti Lutchmedial, who is ill, and Sen. Evans Welch. Hon. Senators, I am awaiting the instrument of appointments. We will revert to this item on the Order Paper later in the proceedings.

PAPERS LAID

1. Motor Vehicle and Road Traffic (Extension of Period for Payment of Fifty Percent of Fixed Penalty) (No. 2) Order, 2022. [*The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne)*]
2. Delegation Report on the Parliamentary Gathering on the occasion of the Ninth Summit of the Americas held in Los Angeles, California, United States of America from June 6 to 7, 2022. [*Sen. Anthony Vieira*]

URGENT QUESTIONS

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne): Madam President, I wish to indicate that I have conferred with and received the agreement of Sen. Mark to defer this item to later in today's proceedings.

Madam President: So, this item is deferred until later in the proceedings.

ORAL ANSWERS TO QUESTIONS

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne): Thank you, Madam President. I wish to indicate that there are three

questions for oral response on today's Order Paper and the Government is prepared to answer all three.

Hon. Senators: [*Desk thumping*]

**Paria Fuel Trading Company
(Resumption of Work on Pipeline)**

121. Sen. Wade Mark asked the hon. Minister of Energy and Energy Industries:

Can the Minister indicate when the Paria Fuel Trading Company resumed work on the pipeline associated with deaths of the four divers that occurred in February 2022?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you, Madam President. No work has been resumed on the number 36 Sealine pipeline associated with the unfortunate and tragic deaths of the four LMCS divers. Thank you.

Sen. Mark: Can I ask, through you, Madam President, when did Paria take the decision not to pursue any further works on this particular pipeline? Can the Minister share the date of that discontinuation, Madam President?

Madam President: Sen. Mark, that question does not arise.

Sen. Mark: Thank you, Madam President. May I go on?

Madam President: Yes. Next question.

**Castara, Tobago
(Shortage of Pipe-borne Water)**

122. Sen. Wade Mark asked the hon. Minister of Public Utilities:

In light of protest action taken by residents of Castara, Tobago in March 2022 because of a shortage of pipe borne water, can the Minister indicate when will the residents be provided with a regular supply of water?

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery

Browne): Madam President, in response to this question, I wish to indicate to this Senate that the residents of Castara, Tobago are generally in receipt of a regular and consistent 24 hours a day, six days a week scheduled supply of pipe-borne water. Unfortunately, on March 02, 2022, the residents of Castara began experiencing an intermittent supply of water, which was triggered by a faulty T&TEC transformer, which caused the pump at WASA's Parrot No. 1 Booster Station to malfunction. Following the repair of the transformer and pump, the 24 hours a day, six days a week supply of water has been restored to this area as of March 07, 2022. Thank you, Madam President.

Sen. Mark: Madam President, can the Minister indicate whether T&TEC provided the reasons for this particular fault or development that took place that resulted in this challenge at the material time?

Sen. The Hon. Dr. A. Browne: Madam President, the question was posed in accordance with the normal business of the Senate. The question was shared with the relevant officials at T&TEC. They provided the response to us and the rationale to us for the interruption, and that was presented in the answer.

Sen. Mark: Madam President, may I go on?

Magdalena Grand Beach and Golf Resort

(Steps Taken to Address Repairs and Service)

123. Sen. Wade Mark asked the hon. Minister of Trade and Industry:

Given the negative publicity suffered by the Magdalena Grand Beach and Golf Resort because of a report by a US Visitor, which highlighted the need for structural repairs and improved service, can the Minister state what steps have been taken to address the report?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon): Thank you very much, Madam President. The Ministry of Trade and Industry is

aware of the negative report made by a former guest of the Magdalena Grand Beach and Golf Resort which was circulated on social media. Evolving Technologies and Enterprise Development Company Limited, eTecK, has taken the necessary steps to address it and ensure that the policies, the standards and procedures of the Magdalena Grand Beach and Golf Resort meet the highest levels of certification. The guest who made the report was a member of a group being accommodated at the hotel, which consisted of 50 persons, during the weekend of 25th to 27th February, 2022.

The fallen ceiling incident on 26th of February, 2022, at approximately 10.30 p.m., caused no harm or injury to anyone. In addition to this incident, the video also included an unsubstantiated claim of bad food. The affected guest was compensated with a one-night refund and a formal apology was issued.

Infrastructure works: as it relates to the partially fallen ceiling, the Magdalena's engineering department responded that very evening, 26th of February 2022. It was determined that the damage was largely due to a passing weather system that comprised strong winds, which was compounded by several storms within the past year that tested the Magdalena's infrastructure. Following the incident, the chief engineer and his team inspected both wings and all public areas of the Magdalena, and all infrastructure was found to be intact. In addition to the Magdalena's engineering department's continued daily maintenance and upkeep of the resort, there is ongoing general maintenance that is required for the ageing property.

In its 2021 to 2022 programme of works, eTecK is engaging a structural engineering consultancy to support the plan of upgrade works of the north and south wings of the resort. The approved PSIP funds for the consultancy and structural upgrade works are \$503,250 and \$759,000 respectively. Both the

consultancy and the upgrade works are expected to be completed by September 2022.

With regard to food and beverage standards, Magdalena maintains stringent food and beverage protocols and, as such, is compliant with all necessary international standards. In light of the food incident, stricter management protocols have been implemented that include a label system that states the date that items are placed on the buffet, proper disposal of unused buffet items and daily inspection of all such items. These protocols are being managed by the executive chef, and the food and beverage manager, and supervisors.

Overall customer experience: the Magdalena continues to implement measures to ensure that a satisfactory customer experience is maintained and that negative incidents are avoided or dealt with efficiently and effectively. To help improve the current service standards, encourage repeat customers and build a reputation for quality and service, all guests receive satisfaction surveys after checking out to assess their quality of stay. And based on the feedback received from the surveys, the hotel management takes proactive measures to improve the establishment standards.

Earlier this month, the Cabinet approved funding for works at the Magdalena Grand Beach and Golf Resort which is expected to enhance the guests' experience, and these works include the repainting of some rooms and upgrades to the flooring, the tiling, the bathroom fixtures and furniture, among other areas. This enhancement of the facilities is also expected to impact positively on the short-term commercial viability of the hotel and its attractiveness for potential investment and divestment. Thank you.

Madam President: Sen. Mark?

Sen. Mark: Yes, Madam President. May I ask, through you, if the Minister can

share what was the quantum of moneys approved by the Cabinet to fund repairs and to bring this very important hotel and resort up to international standards?

Sen. The Hon. P. Gopee-Scoon: The initial amount, as I said before, within this year's PSIP is \$503,250 and \$759,000. However, in addition to that, I can tell you that we have just approved another \$7,288,715 to do essential repairs and continuation of works on the Magdalena as well.

Sen. Mark: May I ask the Minister just to guide me on this one? The moneys that the Minister outlined, are those moneys going towards repairing the various infrastructural deficiencies that were highlighted by the visitor and based on what you have outlined or is there additional funding required to address those issues? Can you clarify for us?

Sen. The Hon. P. Gopee-Scoon: As I said in the initial response, that particular infrastructural issue which was highlighted by the social media has already been fixed and all checks have revealed that there are no such large infrastructural issues regarding the ceiling. What I have highlighted now, in addition to the PSIP projects, are some room repairs and upgrades, and that is in addition to funding that we have also spent on the golf course rehabilitation, elevator replacement and so on. So, work is continually going on and there is sufficient enough spend on the hotel to ensure that it remains to standard.

Sen. Mark: Can I ask the hon. Minister, what steps have been taken by eTecK to use marketing strategies in order to address whatever fallout the hotel and Tobago—and Trinidad and Tobago would have experienced as a result of the negative publicity circulated on social media as a result of the statements attributed to have been made by the US visitor? Can you share with us what marketing—

Madam President: Minister—

Sen. Mark:—PR—**Madam President:** Yeah. Minister.

Sen. The Hon. P. Gopee-Scoon: A public statement would have been issued there and then, in addition to which we would have responded to the social media as well. But, notwithstanding, marketing initiatives remain a substantive matter in any hotel and it remains so for the Magdalena to ensure that it is as viable as possible.

Sen. Mark: Madam President, the Minister did mention the short-term commercial viability of the hotel in her response a short while ago. I would just like to ask the hon. Minister, whether there is intention on the part of the Government to put the Magdalena Grand Beach and Golf Resort hotel up for sale or partnership arrangements with any local or foreign interest or partnership?

Sen. The Hon. P. Gopee-Scoon: Thank you. Well, I am sure that you would have seen on the national press in April, eTeck would have issued, in the international marketplace—that is included locally—a request for expressions of interest for an international operator, or investor, or purchaser for the Magdalena Grand Beach and Golf Resort. And the submissions to date—the response has been quite good, there have been submissions. And, at this point, parties have been invited to visit the hotel and the next step would be the evaluation of the proposals.

SENATOR'S APPOINTMENT

Madam President: Hon. Senators, I am now reverting to the earlier item on the

Order Paper, and I am in receipt of the instrument as follows: “THE

CONSTITUTION OF THE REPUBLIC OF TRINIDAD AND TOBAGO

By Her Excellency PAULA-MAE WEEKES,
O.R.T.T., President of the Republic of
Trinidad and Tobago and Commander-in-
Chief of the Armed Forces.

/s/ Paula-Mae Weekes

President.

TO: MS. MARSHA WALKER

WHEREAS Senator Jayanti Lutchmedial is incapable of performing her duties as a Senator by reason of illness:

NOW THEREFORE, I, PAULA-MAE WEEKES, President as aforesaid, in exercise of the power vested in me by section 44 (1)(b) and section 44(4)(a) of the Constitution of the Republic of Trinidad and Tobago, acting in accordance with the advice of the Leader of the Opposition, do hereby appoint you, MARSHA WALKER to be a member of the Senate temporarily, with effect from 30th June, 2022 and continuing during the absence of Sen. Jayanti Lutchmedial by reason of illness.

Given under my Hand and the Seal of the
President of the Republic of Trinidad and
Tobago at the Office of the President, St.
Ann's, this 30th day of June, 2022."

OATH OF ALLEGIANCE

Senator Marsha Walker took and subscribed the Oath of Allegiance as required by law.

NATIONAL INSURANCE (AMDT.) BILL, 2022

Order for second reading read.

The Minister in the Ministry of Finance (Hon. Brian Manning): Thank you, Madam President. Madam President, I beg to move:

That a Bill to amend the National Insurance Act, Chap. 32:01 to provide for the waiver of penalties and interest, to increase the penalty for the provision of false information, to increase the statutory limitation for the commencement of summary proceedings and other related matters, be now read a second time.

UNREVISED

Madam President, this Bill is two-fold in its approach as, on one hand, it provides for the waiver of penalties and interest on outstanding national insurance contributions for the period July 31, 2022 to December 31, 2022, while, on the other hand, simultaneously, it strengthens the enforcement provisions against those mainly false statements or representations to the National Insurance Board. The resultant effects of the above amendments are:

- (a) the increase in the collection of outstanding contributions;
- (b) the increase in the representation of employers; and
- (c) the increase in the overall amount of national insurance contributions to be collected by the National Insurance Board.

Madam President, this is not a novel approach that this Government is taking today. May I remind this Senate and my friends on the other side that in 2012, through the Finance Act 2012, which took effect from October 2011 to June 2012, this country benefitted from the first waiver of penalties and interest on outstanding national insurance contributions. Madam President, during the first waiver, a total of 2,310 employers took the opportunity to make outstanding national insurance contribution payments, which brought in an additional \$36.8 million in outstanding contributions. However, this was only a small percentage of the contribution income collected in 2012, as the waiver was limited to only employers who were registered with the National Insurance Board prior to October 10, 2012. As such, there was no opportunity, at that time, for new employers to come into the national insurance system and benefit from this waiver. Madam President, this is where the Bill, being presented today, departs from the Finance Act of 2012, as it is applicable to both registered employers existing prior to June 30, 2022, and employers who were registered during the waiver period, which will extend from July 31, 2022 to December 31, 2022.

Madam President, as we are all aware, the NIB has been met with some challenges over the years. There has been a deficit between contributions and benefits for the NIS scheme for several years. As the hon. Minister of Finance stated, the reason for this is simple. We have an ageing population, so people are living longer and therefore, the requirement of the National Insurance Board to pay retirement benefits, in particular the national insurance pension, is now placing an increased load on the National Insurance Board.

Madam President, let me take a moment to define for the population exactly how the NIS fund works. Those working now make contributions to pay the benefits for those retired now. Also, the assets in the fund are invested in various equities, various bonds and the return on those investments are combined with those contributions to make up the benefits that are to be paid. What we have with our ageing population is a shrinking workforce and, at the same time, a growing group of persons who require benefits. This is, of course, unsustainable. This is not a phenomenon that is unique to Trinidad and Tobago. This is happening all over the world, and the actuaries for years have highlighted this fact that there is a gap between contributions and benefits. This particular Bill assists the National Insurance Board in closing the gap between contributions and benefits.

During the period of waiver of penalties or the amnesty period, the National Insurance Board will be the recipient of additional contribution income, thereby adding value to the National Insurance Fund. This Bill empowers the Minister to provide for those persons who also were not able to make the necessary statutory payments as a result of the economic impact of COVID-19 on their business. The period of waiver is now an opportunity to make the payments without the imposition of substantial penalties and the enormous interest that breach of the legislation warranted.

Madam President, the measure we are passing is to provide those persons who earnestly faltered, those who did not and could not make the statutory payments at a period when the country, in midst of a pandemic, shuttered and stunted the operations of businesses in order to safeguard the health and well-being of citizens. This amnesty is reflective of a Government aware of difficulties faced, especially by our small, medium and microenterprises. It is reflective of a Government that cares.

Further, Madam President, the Government is also providing those persons, who have consistently failed to make contributions on behalf of their employees, with an opportunity to do the right thing. The non-payment of NIS by employers has been a perennial problem faced by our country. This deprived several persons, particularly in low-income groups, of access to much needed benefits while concurrently enriching the coffers of the employers that avoid making payments.

This Government is working to address this issue through the introduction of this Bill. And when the period of waiver is over, the penalties will be so adjusted to deter the willingness to breach. Madam President, I say to those who have been wilfully withholding their NIS contributions, that they should get their house in order and pay now because winter is coming.

Madam President, the Bill contains six clauses for our consideration today. The objectives of these legal provisions are to provide those who failed to meet the NIS obligations in the past with a final opportunity to regularize their affairs in advance of the introduction of more stringent penalties for breach of payments and increase the statutory limitation for the commencement of summary proceedings.

Clause 1 of the Bill, Madam President, is the short title, self-explanatory. Clause 2 references the Act as the National Insurance Act, also self-explanatory.

Clause 3 permits the Minister of Finance to provide for future waiver of

interest and penalties under the National Insurance Act by Order, and this is a feature of modern legislation. Clause 3 of the Bill does so by inserting a new subsection (2) in section 39B, the section under which interest and penalties are charged under the National Insurance Act. Madam President, clause 3 of the amendment seeks to grant the Minister of Finance the power to grant future waivers of interest and penalties under the existing Act.

It is important to note that such powers granted under this amendment is not a new construct, as it presently exists in a number of existing legislation, namely, section 9(2) of the Customs Act, Chap, 78:01, remission and refund of customs duty; section 6(4) of the Corporation Tax Act, 75:02, extending, reducing or otherwise altering the list of exemptions to corporation tax under section 6(1) of the Corporation Tax Act; section 8(4) of the Value Added Tax Act, Chap. 75:06, which deals with zero-rating of goods and services; section 14(5) of the Motor Vehicles and Road Traffic Act, Chap. 48:50, amends the Fourth Schedule of the Act for exemption of tax; and, finally, section 72 of the Miscellaneous Taxes Act, allows for remission and refund of online purchase tax.

3.00 p.m.

Madam President, this list, which is in no way exhaustive in nature, explicitly highlights that legislation passed and proclaimed by this Government and those that came before is awash with examples of ministerial authority with respect to the remission of taxes of all types. The main point to note, Madam President, is that a waiver bestows a benefit to individuals and therefore since waivers bestow benefits to individuals and persons they cannot, in any form or fashion, trample on any enshrined rights under the Constitution. It is for this reason that I have referred to the various tax laws and under these various tax laws Parliament has ceded its oversight to the Minister for the waiver of interest and

penalties. The operation by order of any future waiver of interest and penalties due from national insurance contributions having not been paid in accordance with the Act is reasonable, appropriate and consistent with numerous other tax laws in Trinidad and Tobago.

Clause 4 of the Bill repeals section 39C and replaces it with a new section 39C. Madam President, this clause is nearly identical to the waiver implemented in 2012 to section 8(a) of the Finance Act, No. 2 of 2012, with one distinguishing exception, extending the waiver of interest and penalties to employers who have registered during the period July 01, 2022 to December 31, 2022. In 2012 it applied to persons who were in the system at the time of the commencement of the amnesty. This one will allow new insurance, in terms of registration, to register during the period of amnesty.

Section 39C(1), contained in clause 4 of the Bill, implements a waiver on penalties and interest due under section 39B of the Act, where the contribution is paid by the employer between July 01, 2022, to December 31, 2022. A bona fide employer-employee relationship must be in existence. They cannot be fraudulent and the NIB would be tasked to be very careful if any employer seeks registration during the amnesty period.

Section 39C(2), contained in clause 4 of the Bill, applies the waiver to employers registered prior to June 30, 2022, and those who become registered during the period July 01 to December 31, 2022. Section 39C(3), contained in clause 4 of the Bill, clearly establishes that the waiver and penalties and interest does not affect the payment, the actual payment of contributions or the rate of contributions that have to be paid as set out in the National Insurance Act. Section 39C(4), contained in clause 4 of the Bill, operates to revive the interest and penalties when an employer fails to pay the same during the period July 01, 2022,

to December 31, 2022.

Madam President, clause 5 of the Bill increases the penalties for associated offences of, firstly:

- (a) knowingly making any false statement or false representation; and secondly
- (b) produces or furnishes or causes or knowingly allows to be produced or furnished any document which a person knows to be false in any material particular.

This clause will increase the penalties for persons making false representation to NIB and that is particularly relevant to the opportunity for unregistered employers to now register with the NIB.

The increase in penalties is significant. The fine which was quite minimal in the previous years was part of, admittedly, archaic legislation. It has not really been increased for a long time. The fine and custodial sentence were quite small so that this Bill is significantly increasing the applicable penalties as a strong deterrent for persons who wish to submit false information during the waiver period and in the future. Clause 6 of the Bill seeks to increase the period of pursuing summary offences under the Act from 12 months to three years from the date of the commission of the offence or from three months to 12 months from the date in which the Executive Director had personal knowledge of the offence. The improvements in clause 6 of the Bill allow the National Insurance Board further time to commence investigations and ultimately proceeding before the court before suspected criminal action becomes statute-barred.

The joint effect of clause 5 and 6 is to strengthen the enforcement provisions under the Act to ensure that the National Insurance Board is better able to pursue those who submit false information, documents or statements. There are other

mechanisms that exist under the Act to help the National Insurance Board in unearthing fraud, so this is not the only measure. For example, section 31 of the Act permits the National Insurance Board to request information from employers concerning employed persons and to inspect any record of employed persons. Section 32 of the Act permits authorized officers to enter and search premises to examine books, records and documents.

Madam President, provision is also made for seizure of books, records and documents under regulation 6 of the Insurance Act which contains these existing provisions. Regulation 6 of the national insurance or contribution regulations makes a legal requirement for all employers to provide the National Insurance Board and retain for a period of seven years until audited by the National Insurance Board with the following information: the names and national insurance numbers of employees in their employ; the monthly or weekly salary or wage of the respective employees; the contribution class in which earnings are paid, and the number and value of contributions due in respect of each employee for every week in the said month and any other information required by the National Insurance Board.

These existing powers supplemented by the enhanced enforcement powers proposed by clause 5 and 6 of the Bill will assist the National Insurance Board in pursuing those who are intent on providing false, misleading and erroneous documentation of statements during the waiver period. As I said earlier, Madam President, winter is coming. Let me conclude, Madam President, by reiterating my support for this Bill. Its implementation will, in the short term, add to the coffers of the National Insurance Board.

Madam President: Minister, I think Sen. Vieira wants to ask you—

Hon. B. Manning: Sure.

Sen. Vieira: Thank you. Thank you, Madam President. Hon. Minister, winter is coming and I know that the NIB is under a lot of challenges in terms of income. So, yes, we want to increase these penalties and fines but can you tell me—not now but in your winding up, hopefully you will get the information, how many people have actually been charged under section 63 with making false statements, producing false documents or under section 65 with failing to pay contributions? And also, how many cases have actually been brought by the NIB under section 66 for civil proceedings to recover sums due to the Board? What is the sense? I would like you to be able to convince us that, yes, we need to ramp up the penalties but we are also going to enforce, because if we do not enforce it, it makes no sense.

Hon. B. Manning: What I can tell you is that I do not have that information at this point in time but I can get it for you. But we have introduced a method in terms of detecting the companies that have not been making their contributions and we estimate there are approximately 4,000 employers in Trinidad and Tobago that are fraudulently not making contributions.

Sen. Vieira: Minister, under this law you cannot hide behind the company veil. You can go behind any director or manager or officer involved in the offence. And also, unlike typical summary offences, which is six months, you have three years to bring the charge. So I am really hoping to hear that NIB is going to get serious with enforcement.

Hon. B. Manning: Yes. That is exactly what I am saying, we have improved detection. We are much better at this point in seeing which employers are not in compliance with the law and we are absolutely after the amnesty period. We are going to go after these delinquent employers. I can assure you of that.

Its implementation will, in the short term, add to the coffers of the National Insurance Board and in future, place the institution on a better footing to execute

its mandate. All of this redounds to the benefit of the people of Trinidad and Tobago who must avail themselves of the several benefits offered by the NIB. And in case we have forgotten, the NIB is the linchpin of our social safety net programme in Trinidad and Tobago. Some of the categories in which they offer benefits are: sickness, maternity grants, special maternity grants, retirement, retirement pension, retirement grant, employment injury, injury allowance, medical expenses, disablement grant, disablement pension, employment injury, death, widows' pension, widowers' pension, child's allowance, dependent parent pension, remarriage grant, and a host of other benefits that I do not have the time to list here today. Madam President, the NIB is determined to provide for future generations of this country post-retirement. Madam President, I beg to move.

Hon. Senators: [*Desk thumping*]

Question proposed.

Madam President: Sen. Mark.

Hon. Senators: [*Desk thumping*]

Sen. Wade Mark: Thank you, Madam President. Madam President, the Bill before us seeks to amend the National Insurance Act, Chap. 32:01, to provide for the waiver of penalties and interest, to increase the penalty for the provision of false information, and to increase the statutory limitation for the commencement of summary proceedings under the National Insurance Act. Madam President, the Minister in his very brief statement, on a very far-reaching measure that will impact negatively on the NIB operations and its ability to make its obligations realizable under the Act governing this very important social, security and safety institution in this country, the Minister gives the impression to this honourable Senate that this is a very simple and straightforward matter because it was done before in 2012 under the Partnership Government, but the Minister cherry-picked

his language but I will clear the air for the sake of my hon. colleagues in this House to show the fundamental distinction between what the then Minister of Finance did in 2012 and what this Government is seeking to do in this 2022 amendment.

Unfortunately, Trinidad and Tobago does not experience winter, so I want to tell the hon. Minister, it is not winter that is coming, it is heat for the PNM that is coming because of this amendment.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Heat. Madam President, you know, when I looked at this thing it pained me how a government in this slipshod manner, Madam President, could bring such far-reaching amendments to the NIB and simply, you know, tell this Senate that it is necessary in order to help the poor man or the individuals in the society. But when we look at this whole exercise before us, Madam President, we have to ask the question, why must our Parliament—why must this Senate, Madam President, reward—why must we reward wrongdoers? If I break the law, Madam President, the Government is coming for me through their police—or through the police, I should say, to charge me. If I am involved in corruption and the Government is aware of that through the police, they are coming to charge me and I am ending up before a court facing jail terms. But here you have, Madam President, the Government in a very, what I call slipshod manner, bringing an amendment to do what, Madam President? To reward a confederacy of wrongdoers in our nation.

We have actually, Madam President, through this amendment, rewarding lawbreakers, people who are supposed to be in jail for not honouring their obligations to the workers of this nation—

Hon. Senators: [*Desk thumping*]

Sen. W. Mark:—and you are telling us, Madam President, we must accept this. And, Madam President, what is even worse is that the Minister is arrogating onto himself a power that in 2012 Minister Winston Dookeran never even contemplated. The Minister in this piece of legislation—and I will bring it to your attention, Madam President—wants to have the power to waive penalties, to waive interest. And not only that, you know, Madam President, those wrongdoers, those lawbreakers can now break the law at will because the Minister in the legislation is giving himself the power to pardon them. This is what is called, lawbreaking illegality in perpetuity. That is what we are being asked to approve today.

Madam President, in another country there might have been action on the streets of another nation; I do not know why our people are so quiet, but this is not acceptable in a modern, civilized society. How can a Government come with this kind of thing in 2022 when people, Madam President—when we did it in 2012 we discovered there were about 3,000 or thereabout employers who were not making their contributions to the NIB over a four-year period and an incentive was offered at that time in 2012 for them to put their house in order, those who were registered. I do not know how much money they realized at the time, Madam President, but it was for a specific period. It was like what is called a sunset clause was introduced in 2012 and when that time was up, it was up and we went back to normalcy. This is not what the Government is proposing, Madam President. Madam President, the—

Hon. Manning: Madam President, 46(6), in 2012 the Minister of Finance unilaterally extended the amnesty at that time.

Sen. W. Mark: You must await your ruling on matters.

Madam President: Sen. Mark, just continue. Thank you.

Sen. W. Mark: Thank you very much.

Madam President, let me just deal specifically with what we have before us. Madam President, the measures contained in this Bill will hurt the National Insurance Board. In the main, as a people's social security institution it will hurt the National Insurance Board. Madam President, employers would have collected, they would have utilized—they would have retained, I should say, collected, retained, Madam President, and utilized the moneys from their employees and there are supposed, Madam President, in accordance with the NIB law, twice the amount, one-third/two-thirds. That is the arrangement, literally. So the employer, Madam President, would have collected, retained and utilized the moneys, Madam President, that they were supposed to submit to the NIB and we do not know for how long because the Minister was very economical in his contribution today, we do not know how many employers are involved. We do not know, Madam President, what is the value owing to the people and the NIB. We do not know if it is big, medium-sized, small businesses that are involved. We do not know, Madam President, what role the Government is playing in this whole exercise.

Is the Government a lawbreaker in this matter? We do not know because the Minister has not provided us with any details and he wants this Senate to give him a blank cheque. How can we give you a blank cheque and you have not provided the Senate with full disclosure? Where is the transparency? Where is the accountability?

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: How can you expect us to just give you a blank cheque today? You have to provide this country and the Senate with details. How many employers are at fault in this particular matter? We do not know, Madam President.

Madam President, these amendments that we have before us would give the Minister, what I call, Madam President, and deem limitless powers to give waivers

to employers who would have blatantly and brazenly breached and violated the NIB Act. That is what we are being asked to do today. Madam President, I would have thought that a serious Government coming to this Parliament might have want to consider some options available, Madam President. For example, should we not, Madam President, be considering if the Government is seeking to give the Minister this power to waive penalties and interest, tell the Senate, “Listen, those employers who are owing \$200,000 or \$100,000 to the NIB, up to a maximum of \$200,000, those employers would be granted a limited waiver or amnesty for six months to pay up, and those who are above \$200,000, Madam President, these people must pay.” And not only must they pay, Madam President, we want to know the names of those companies. Are these companies the financiers of the PNM? We need to know. Madam President, this thing is pregnant with possibilities of manipulation for corruption and corrupt purposes. I am not saying Minister will do it, Madam President, any Minister of Finance with this kind of power can manipulate the system to say, “I am discriminating against A as opposed to B. I am giving B a bligh and I am not giving C a bligh”, because, Madam President, the Parliament has no oversight. The Parliament has no supervision. The Minister is an absolutist. He takes all the power from us.

Sen. Mitchell: Madam President, 46(6), please.

Sen. W. Mark: [*Inaudible*]—all the power.

Madam President: So, Sen. Mark, your language is becoming increasingly—

Sen. W. Mark: [*Inaudible*]

Madam President: No, no, just hold on. May I just finish my ruling, please, Sen. Mark? Your language is becoming increasingly inflammatory, so I will ask you, please, to dial it back. Okay?

Sen. W. Mark: Madam President, if you were in my place—if you were in my

place, Madam President, you would have been just as me, very, very passionate about this but I understand—

Hon. Senators: [*Desk thumping*]

Madam President: So—

Sen. W. Mark: [*Inaudible*]

Madam President: Okay.

Hon. Manning: Madam President—

Sen. W. Mark: Madam President, may I continue, please?

Hon. Manning:—I would like to ask Sen. Mark, please, he gave some numbers before, I would like to know how those numbers were derived in terms of what level persons should be allowed to escape.

Madam President: Sen. Mark, are you allowing the Minister to give—

Sen. W. Mark: Madam President, I am not allowing anyone unless they get my permission. Okay?

Madam President, I am calling on the Minister of Finance or the Minister in the Ministry of Finance to provide the Senate with a list of all the beneficiaries of these penalties that you are going to waive.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We want to know, Madam President, how many, who are they, and what is the sum of moneys that NIB will be giving up.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: We want that information, Madam President. We need to get that information. Why must we give the Government a blank cheque to write-off or to forgive unlimited amounts owed to the NIB without any form of scrutiny, transparency and/or accountability? Madam President, the Bill is seeking to amend, Madam President, the parent Act.

Madam President, go to section 39B of the legislation because the first thing you would see here, Madam President, in the Bill before us, if you go to clause 3, you will see where in 39B the Minister—we are inserting in 39B the following; Madam President, in subsection (2) of clause 3 it reads:

“The Minister may, by Order, provide...the waiver of penalties or interest due and payable under this section.”

This is a new section that has been inserted in this particular legislation. It was never here before, Madam President. The Minister inserted this provision or section to give the Minister what is called, Madam President, total sweeping and absolute power without any supervision, any accountability, any kind of oversight by our Parliament. Madam President, let us understand what is at stake here, Madam President. In section 39B—and, Madam President, may I tell you, I have been advised, I have been informed, and I call on the Minister to clear the air on this matter, the NIB is based on the principle, Madam President, or concept of tripartism; it has labour, it has Government and it has business.

3.30 p.m.

Madam President, I have been advised that this matter that is before us today never went before the Board of the NIB for its approval. This is a unilateral decision taken by the Government of the country without any consultation with labour, without any consultation, I understand, with business and, of course, the Government is involved, so the Government consulted itself.

I would like the Minister to indicate this, because I spoke to the labour movement, JITUM, FITUN and NATUC, and they have all indicated to me that they have never seen this amendment, it was never brought before the Board of the NIB. This was a unilateral decision taken by the Government of Trinidad and Tobago.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: If we believe in social dialogue, if we believe in the social partnership concept, you must try to arrive—Sen. Vieira would agree with me. When you talk about social dialogue, you must try to bring the parties together, and even though they do not agree, because not every time people are going to agree, but at least the record would show that the Government brought this matter before the NIB Board of Directors, and there was a majority vote on it. But not to bring it to the attention of the NIB is a crime against the workers of this country.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: And the Government comes here today, and they do not tell us that. The Government must speak when the time comes.

Hon. Manning: Madam President, 46(1). How is this throwing a benefit on the people of Trinidad and Tobago, attacking workers?

Sen. W. Mark: [*Inaudible*]

Madam President: Sen. Mark, if I could be allowed to make the ruling? The Minister has invoked the Standing Order, and then you are speaking at the same time. Can I just ask you Sen. Mark to continue.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: Madam President, I go on to this clause that talks about:

“The Minister may, by Order provide for the waiver of penalties...”

That is subclause (b) of clause 3, subsection (2). Madam President, I want to serve notice that we will be circulating an amendment to this particular clause of the legislation. So we serve notice on the Government that we are not in favour of the current construction or configuration of this clause in the legislation.

Madam President, if you go to clause 3, it talks about NIB 39B of the Act. What does 39B of the Act tell us? It tells us, and I quote for your information. Let

us go to what they are talking about. If you go to 39, this particular section of the legislation—Madam President, go to 39B, what does it say?

“Where any employer fails to pay the amount of contributions payable by him to the Board under the provisions of this Act by the fifteenth day after the due date,…”

So, Madam President, if I am an employer and I take from your salary, I deduct from your salary your NIS contribution. I top it up by two thirds, I have until the 15th of the following month. So if we are now on 30th June, I have until 15th July to submit my contribution to the NIB. This is what the law says:

“he shall be liable…”

If he does not do that, if the employer does not do that, you know what happens? If that is not done, he shall be liable to pay the following penalties, and that is what we are being asked to waive. Hear the penalties that the employer will be called upon to pay and to make:

“(a) a penalty of twenty-five per cent of the outstanding sum;”

So if you owe after the 15th that amount of money, the NIB under the law must impose a 15 per cent charge of interest on that money. You are asking the Parliament to waive that. So “yuh” collect my money, you collected my money, “yuh” retain my money, “yuh” utilize my money, and then after you do all that, and I dare say, Madam President, there are some employers who have invested NIB money for their own purposes, and not remit same to the NIB. And then you are telling me we must reward those employers? Look man, Madam President, I have respect for employers. I am a democrat, but I say there is something called “fair treatment”. There is something called “fair treatment”. We demand fair treatment.

Sen. Mitchell: You are a socialist.

Sen. W. Mark: If you break the law, those who do the crime must do the time. You cannot be breaking the law, and we are rewarding you for breaking the law. That is not fair.

So, Madam President, we go on, 39B, you go to (b). So the first thing, 25 per cent if you pass the 15th day of the following month. Madam President, this is (b):

“(b) penalty of one hundred per cent of the outstanding sum,…”

Madam President: Sen. Mark, I have to stop you here. You are dealing with clause 3 of the Bill I believe, and you are objecting to clause 3. You have stated that a few times. There is no need for you to be going into the parent Act and setting out all of the provisions of the parent Act. So, I will give you exactly 30 seconds to see if you link what you are saying now, because, as I see it, you are kind of repeating.

Sen. W. Mark: I am linking, because we are talking about the Minister having the power to waive penalties, and if you go to 39B, (a), (b) and (c), these are the penalties that the Minister is seeking to waive. So I need to bring—

Madam President: So I hear you. I understand Sen. Mark. What I am saying is, all of that additional, what you are saying additionally by going through the penalties and the interests, it is not necessary, and you have made the point already about clause 3. There are three more clauses that you can treat with in the Bill as well.

Sen. W. Mark: Madam President, I thought you had given me the freedom of speech to exercise under the Constitution?

Madam President: So Sen. Mark you know that you have freedom of speech, but you know as well that it is—

Sen. W. Mark: [*Inaudible*]

Madam President: Thank you.

Sen. W. Mark: Madam President, I go on with your guidance. The employees would have made their contributions to the NIB by way of deductions from their wages and salaries. I want to tell this honourable Senate that my wage, my wages and my salaries which I receive over a period of time constitute my property—constitute my property, and for any employer to take my property and not remit it to the NIB, that is equivalent to embezzlement. That is equivalent to fraud. Any employer that fails to submit my wages through that deduction process to the NIB is embezzling my money without my authorization. It is committing a fraud, that is what this is about. How can we forgive such people? We cannot.

So, Madam President, I am saying to this honourable Senate, that it is absolutely unacceptable and indefensible for us to engage in any activity to address wrongdoers by rewarding them.

Madam President, you go to clause 4 of the Bill and you see in clause 4 of the Bill they are repealing 39C of this Act and they are substituting the following. Madam President, in this clause 39C we are being told:

“Notwithstanding any written law to the contrary, there is a waiver of all penalties and interest due and payable under section 39B in respect of any contribution outstanding as at 30th June, 2022 by an employer under this Act, where the contribution is paid during the period 1st July, 2022 to 31st December, 2022....”

So what is being said here is that you are getting a waiver on all penalties and interest that you owe the NIB and that is payable under 39B. Any outstanding contribution as at the 30th of June, you do not have to pay. There are no penalties, no interest.

If you go to subclause (2) of clause 4, you would see where the waiver under this:

“applies to—

- (a) an employer who was registered with the Board prior to 30th June, 2022;”

So, Madam President, yes, an employer who was registered with the Board prior to the 30th of June, yes, he is going to be able to benefit from this waiver. But it goes further. It says in (b):

“an employer who registers with the Board during the period 1st July, 2022 to 31st December, 2022...” will also be able to benefit from this waiver of penalties as well as interest.

So, Madam President, what this is telling us, if you are registered before a certain date, 30th of June, no problem, you will enjoy all these privileges through waivers, but the Government goes a step further.

The Government is saying, if you were collecting NIS from workers and you were not registered for several years, you can now register for the first time, do not be subject to penalties and no interest. So on two counts this pro-employer Government takes a decision to give the employer a bligh. “Yuh” register, it is okay. “Yuh” do not register, it is okay. So what is this Government about? Is this not a lawful government? Is the Government not supposed to be upholding the law?

You know, Madam President, whilst they are doing all this for employers, they are telling you and me and ordinary workers, under the National Insurance Act, if I reach my 60th birthday and I am entitled to retire having paid my 750 contributions, the Government to proposing 6 per cent deduction, 61 years, 62 years, 6 per cent deduction, 63 years, 6 per cent deduction.

Hon. Manning: Madam Speaker, 46(1), this is not relevant to the matter before us today.

Sen. W. Mark: [*Inaudible*]

Madam President: Yes. Sen. Mark continue.

Sen. W. Mark: The Government is trying to promote the interest of the employer, and they are not promoting the interest of the working class in our country.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: They are telling the working class that they must retire at the age of 65. Nothing for you if you go at 60, meaning 3,000 is not yours. That is wrong.

Hon. Manning: Madam President, 46(1).

Sen. W. Mark: Madam President, may I go on please.

Hon. Manning: What does increasing the retirement age have to do with this?

Madam President: Minister I ruled previously. I am allowing Sen. Mark to make his arguments, and so I am going to allow him to continue. Sen. Mark continue.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: I do not know if my hon. colleague is suffering from newness, I do not know. He does not understand the process, but I am happy that the President is guiding you.

Madam President, may I continue please? If you go to the same clause 4, you go to subclause (3) of clause 4. The waiver under this clause does not affect the obligation of an employer to pay contributions in accordance with section 38. It goes on:

“Where an employer fails to pay his outstanding contributions by 31st December, 2022, the penalties and interest which would have been payable in respect of the failure to pay the contributions shall be revived and become payable as if the waiver under subsection (1) had not been granted.”

That sounds very reasonable. It sounds reasonable, “buh hear de sting in de tail. Hear de sting”. In subclause (5), the Minister enters the arena of the NIB again,

and this time in subclause (5) of clause 4, the Minister says:

“The Minister...”—according to this clause—“may, by Order prescribe a later date for the payment of contributions under subsection (1).”

Madam President, it is as if the Government has a death wish for the NIB. Is the Government actively promoting measures in this Bill to close down the NIB? Because this measure here is telling me that any employer who does not satisfy what the Minister has in this piece of legislation in clause 4, if he does not meet the 31st of December deadline, here comes the Minister.

I want to repeat, it is important for you to note:

“(5) The Minister may, by Order, prescribe a later date for the payment of contributions under subsection (1).”

“The Minister may, by Order...”

Without any parliamentary oversight, without any parliamentary supervision, without any transparency, without any accountability:

“The Minister may, by Order...”

You know these things happen in France under a woman called, I think was Queen Marie Antoinette. You know what happened to Marie Antoinette with these kind of measures?

Madam President: Sen. Mark, please, please.

Sen. W. Mark: All right, Madam President. May I tell this Government that it is provoking the population with this kind of measure?

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: They are provoking the population with this kind of measure.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Mark, I still have to caution you, your language.

Sen. Mitchell: He is provoking us.

Sen. W. Mark: Madam President:

“The Minister...”—in subclause (5) of clause 4—“may, by Order, prescribe a later date for the payment of contributions under subsection (1).”

Well we have lawyers here. I am not a lawyer, I am a bush lawyer, “but ah think ah understand what ah reading.”

Sen. Mitchell: Do not denigrate the bush.

Sen. W. Mark: The Minister has the power after the 31st of December 2022 passes, he has the power under this section to extend the time to these friends and financiers of the PNM to do whatever they want. The Government “cyar” be serious. So let me serve notice on the Government as I am here, we will not support this. We will be making amendments to this section of the legislation.

Madam President, I want to indicate that when you examine what we have before us carefully in 5 and 6, what is the Government doing. Giving you a little slap on the wrist. So the Government says, “Listen, you see the penalties, instead of \$2,000 that was there since 1972 or a little later, and to imprisonment to a term of six months, for our friends and our financiers, if you do not straighten up—

Madam President: Sen. Mark, you actually have, and I apologize, one more minute.

Sen. W. Mark: [*Inaudible*] Madam President, I want to tell this Government we reject completely this abomination that is before the House. We say this Government is playing with fire. They are provoking the population, and this measure is not acceptable to the working class. It is a pro-employer arrangement. I have no problem with employers, but I need fairness, I need a balance. I need justice for the workers.

Hon. Senators: [*Desk thumping*]

Sen. W. Mark: There are workers who are suffering out there. They have not

been able to get their pensions. They have not been able to get maternity grant and leave because employers have failed. Even though we have section 50 of the NIB Act in place, they have not been able to meet their obligations in accordance with the law. So, Madam President, the Government must withdraw this Bill. Seek proper consultation with the social partners, and come better, and let us bring this thing to a joint select committee or a select committee of the Senate, so we can go through it thoroughly and comprehensively. I thank you very much, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Deonarine. [*Interruption*] While we await for Sen. Deonarine to begin her contribution, I remind Members that if there are amendments they must be put in writing and circulated prior to the commencement of the committee stage. Sen. Deonarine.

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to contribute to the debate on an Act to amend the National Insurance Act, Chap. 32:01, to provide for the waiver of penalties and interest, to increase the penalties for providing false information and to increase the statutory limitation for the commencement of summary proceedings and other related matters.

Madam President, this Bill is a simple Bill. It offers waivers of penalties and interest to employers. It offers an opportunity to delinquent employers and employers who experienced economic hardship over the past several years, to settle their outstanding national insurance contributions. What it also does is it gives an opportunity to these employers not registered with the national insurance system to now register, potentially increasing the number of contributors to the system.

While I agree with this amnesty, I do so with some concerns, some

reservations, some concerns that I will speak to during the course of my contribution. Madam President, as opposed to Sen. Mark, I actually think offering this amnesty is long overdue—

Hon. Senators: [*Desk thumping*]

Sen. A. Deonarine:—and indicative of a starting point to deal with the long-term sustainability issues that we have with the national insurance fund.

Now, expenditure on the national insurance fund first exceeded contribution income to the national insurance fund nine years ago in 2013. Actuarial reviews for several years have highlighted and brought to the attention of several policymakers, during this Government and previous governments, of the widening gap between contributions made to the national insurance fund and the benefits paid out. The deficit has been an ongoing issue, which policymakers over several administrations have been slow in responding to.

For fiscal year 2021 alone, benefit expenditure was \$5.5 billion. When we take into consideration non-contributory senior citizen pensions for the same period, fiscal 2021, expenditure was \$4.2 billion. Madam President, that is a total of \$9.7 billion in expenditure to sustain the elderly in Trinidad and Tobago. That is approximately 7 per cent of GDP and 36 per cent of Government expenditure on transfers and subsidies. This is not sustainable.

Madam President, as I continue to set the context for the points that I would make later on, on the different clauses of the Bill, it is important to understand that this increasing demand has been as a result of demographic changes to our population. Trinidad and Tobago is characterized by an ageing population, as several speakers before would have indicated. There is a higher life expectancy, a declining labour force, a high old age dependency ratio at about 19 per cent, and declining fertility rates.

The problem is being further exacerbated by declining labour force participation, stagnating economic conditions characterized by slow growth, increasing unemployment, and inadequate understanding by policymakers of the size and the evolution of informal employment and the informal economy. In other words, this problem has been a slow burning fuse for some time.

So, Madam President, this Bill before us via clause 4 offers a temporary coping mechanism to assist the National Insurance Board in closing the widening gap between contribution income and benefit expenditure. The gap is currently valued at just over \$1 billion.

Clause 4 applies a waiver of penalties and interest to employers registered with the National Insurance Board as of today, the 30th June, and those who register with the Board over the next six months. So those are employers who have never been registered or received a certificate from the National Insurance Board, have never paid any contributions of national insurance for their employees. So the question is, is this going to achieve the intended objective of narrowing the gap between contributory income and benefit to expenditure? So it is important to remember and remind everyone what the objective is. The objective is to narrow that gap and increase the quantum of national insurance contributions.

Now, as I said, this measure presented in this Bill is a short-term one. It certainly would assist, but it is not the be-all and end-all. It is a temporary measure, and the problem will continue to persist. Even with the amnesty coming into effect, bright and early tomorrow morning, until the end of the year, a close look at the estimations provided by the Minister of Finance—and I refer to an article by the *Trinidad Express*, which the hon. Minister of Finance would have provided details on the estimated contributions that they expect to receive from this amnesty, I did not hear the hon. Minister in the Ministry of Finance mention these estimates.

4.00 p.m.

So the estimates are 10 per cent of errant. Currently there are 4,000 employers who are currently not registered with the National Insurance Board as per estimation by the National Insurance Board. And the NIB is estimating that 10 per cent of those 4,000 employers would take advantage of the amnesty which is a rather very conservative estimation. But when you take a close look at these estimates and what we expect to yield from this tax amnesty, Madam President, it is easy to see that the National Insurance Fund will continue to be under pressure and the long-term sustainability of the fund will continue to be under pressure.

So the expectation is that at the first year, according to this article and this is also validated with the *Hansard*, in the first year of this amnesty we expect to receive \$161 million. This is with respect to unregistered employers who would now become registered. That is the 400 persons, the 10 per cent of the 4,000 persons who the NIB currently estimated are unregistered. So the estimation is that \$161 million in additional contributory revenue would be earned followed by \$79 million annually for the next 10 years, so for a total of \$790 million over the next 10 years.

Madam President, this increase works up to an annual increase of about 2 per cent increase in the contribution income in the fund for the next 10 years. And if we look at the rate at which the fund has been—and using a conservative estimate of benefit expenditure increasing by about 3 per cent because actually the benefit expenditure has been increasing by about 5 per cent annually over the last six years, then we will still be in this same problem. By 2030, if we run a quick estimation we will see that the fund would be at a deficit of \$2billion at 3 per cent if the fund continues—if the change in benefit to expenditure continues to grow at a rate of 3 per cent. And if the rate of growth and benefit expenditure continues to

grow at the rate of 5 per cent which it is currently growing over the past six years, then by 2030 our deficit would be—the deficit on the fund would be about \$3.3 billion.

So, we all have to agree that there is a problem. The problem is going to persist and we need to find a solution which is where the parametric changes recommended by the NIB come into play. But, Madam President, I know that is not the subject of discussion today so I will move on.

But apart from that, with respect to the matter that is before us today, waiving interest and penalties to employers, I have a concern as to why the NIB's estimated uptake is so conservative of 10 per cent knowing that there 4,000 persons, 4,000 employers who are estimated to be unregistered with the NIB. Perhaps the NIB is really being so conservative because maybe consideration is being given to the dent on businesses cash flow that this measure would bring in terms of taking advantage of the amnesty and it may very well, to some extent, serve as a deterrent to employers to register with the NIB and derail achieving the objectives.

Now, let me clarify, Madam President. Let us look at the impact of the amnesty on employers. Let us take an example. If a sole trader who has been in operation for the past 10 years employing one person at a salary of \$10,000 per month, that person automatically—that employee of the sole trader falls under class 12 of the NIB contribution rankings. And in that case when this person takes advantage of what is being provided in clause 4 of the Bill, a previously unregistered employer who is now going to take advantage of the amnesty that is being provided, so therefore he registers. As he registers, he is expected to pay his portion which is one—two-thirds of the contributions to the NIB for the past 10 years.

Now, we are looking at an employer who has—this employee had a salary of \$10,000. The employer's NIS contribution at that point in time when he decides to take advantage of this amnesty is \$155,000 for that one employee and that is assuming that that is a very small business, a micro business and assuming that the employee has not paid any contributions as well, because we very well know, as Sen. Mark would have indicated, there are some instances where employers would receive contributions from employees and have not been paying to the National Insurance Board. And as a matter of fact and in some instances have not even been registered with the National Insurance Board. So we are talking about \$155,000 an employer has to pay, has to find cash to pay this amount of money in order to take advantage of the amnesty.

Now, \$10,000 may sound as a lot. Let us think about a micro business who might be employing somebody for \$5,000. In that case the amount that would be due and the amount of cash that would have to be paid, the amount of liquidity or the cash flow that is required for that employer to pay to the National Insurance Board is \$66,000 and that is providing that he employs one person at \$5,000.

Let us break it down even further. Let us say a sole trader employs someone at minimum wage. That is a monthly salary of \$2,800. If he has been errant for the past 10 years and has employed this person for the past 10 years, then the amount that is due to the National Insurance Board would be \$37,000.

Now, in the definition of a micro business it is understood that a micro business employs between one to five employees. A small enterprise between six to 25 employees. The sales of a micro-enterprise—the sales revenue of a micro-enterprise is around \$250,000, less than \$250,000. So for any small business hiring five employees at minimum wage, it will cost that firm some \$187,000 to take advantage of this amnesty if they were errant for the past 10 years and if they were

errant for, let us say it, five years, then it cost that firm \$93,000. This is a firm that is categorized as micro who has sales revenue of less \$250,000. This is almost all of this micro business sales revenue. This is not taking other expenses into consideration. So—and it also depends on the number of years that this person has been errant.

Now, Madam President, the point that I am trying to make is that, I am really not sure that the liquidity or the cash flow position of micro and small businesses would allow for such large payouts in six months because this is a large chunk of money that these businesses would have to dish out to take advantage of this amnesty especially coming out of a period of severe economic hardship and coming out of a pandemic where many businesses had to be closed, many businesses had to pivot their operations. Many businesses are actually, to this day, battling challenges or rising prices, rising cost of inputs, rising cost of doing business in general.

So, Madam President, for business—to achieve the objective that we are trying to achieve, I see this actually as, this challenge that small and micro—that micro and small businesses would encounter would actually serve as a deterrent from taking advantage of this tax amnesty and serious consideration should either be given to maybe extending the amnesty to a period of one year so that cash-strapped businesses are able to pay increments of the amount that they would be—that they would owe to the National Insurance Board within a very clear defined criteria.

Now, it may very well have the medium and the larger businesses who are able, who have the cash flow flexibility to make these payments. But for micro and small businesses we need to be considerate as to their ability to take advantage given severe economic constraints that they would have experienced over the past

couple of years. So, Madam President, just to reiterate, there is an incentive to be dishonest upon registration.

So let us just say. I am a sole trader. I have been in existence for 12 years. I have hired someone for the past 10 years. I want to register with the National Insurance Board. I register with the National Insurance Board but my cash flow and my accounts do not show that—does not allow me to pay the amount that I owe to the National Insurance Board at that point of registration but I really want to register with the National Insurance Board and take advantage of this amnesty. It encourages me to want to be dishonest on the application and say, “Well, you know, I hired X, Y and Z for only two years”. And there is nothing in the legislation that establishes a criteria which would prove that a bona fide relationship exists between the employer and the employee for the—so this is entirely now up to the National Insurance Board to say that—to define a criteria that would allow the employer to provide sufficient information, justifiable information to prove that a bona fide relationship exists between the employer and the employee. But I assume that in this case the National Insurance Board compliance procedure would pick up.

And this is where clause 6 of the Bill kicks in. Because clause 6 increases the charge for provision of falsified information from \$2,000 to \$50,000 and to imprisonment for three years. So, now, initially I explained the trail of thought that one sole trader may entertain. They may initially think that, well, no. I cannot afford to pay for the 10 years that I hired this person when I register. So I am going to say that and provide documents and say that, “I have had, I have hired this person for two years”. But from what I understand, Madam President, the National Insurance Board has been increasing the number of audits, the number of compliance procedures. They have been strengthening their compliance units and

they are going about increasing the level of compliance. And with this piece of law in place, with this clause coming into effect, Madam President, any employer seeing that the risk that they would have to run, \$50,000 and imprisonment for three years for providing falsified information which is actually the thought that they were entertaining, may very well end up just not bothering and just not taking advantage of the amnesty and not registering with the NIB and continue to be part of the informal economy.

So, Madam President, while I understand the logic in increasing the fines to deal with the risk of fraud and that—and that is highly probable with the inclusion of unregistered employers. It is meant to force compliance. But would this be sufficient of an incentive to get persons to want to register with the National Insurance Board? And that is what we are trying to do. We are trying to get persons to enter into the system so that they can be an increase, a long, a sustained increase in the number of contributions to the fund. So this is why I am thinking that the NIB is being so conservative with their estimations on the number of employers who would actually take advantage of this amnesty because it could go either way.

So as I was saying earlier, Madam President, I understand that the NIB has stringent audits that take place. They have some tele compliance procedures that they have been increasing. But, Madam President, to improve compliance it is important to take into consideration several factors. Now, increasing penalties and fines are one thing. But we also have to take into consideration the financial ability of firms to take advantage of the amnesty which is what I established earlier on. It may not—there is a high likelihood that some, many employers especially the ones who we are proving this amnesty for, may not be able to—may not have the financial ability to take advantage of this amnesty.

And there is also—another factor that has to be taken into consideration is understanding the national insurance—the NIB programme and how the insurance works. Now, I understand how the insurance system works. Now, I understand that the NIB has been on a drive to increase public awareness and public education about the benefits, the contributions and how they work. I think a lot more needs to be done because there are a lot of persons who do not understand how this National Insurance Fund works. How the benefits work. What you get for your contributions and so.

And actually, Madam President, there are so many employees who do not know that even though they are contributing, that their employer should also be contributing on their behalf. They do not know that the employer is responsible for two-thirds of the contributions. And that is something that came to light at the onset of the pandemic. And when the—I forget what they called the grant that was offered by the Ministry of Finance. There was a grant that was being offered by the Ministry of Finance and a lot of persons could not have qualified for that grant because even though they were making their contributions, their NIB contributions, the employers were not. So they automatically had to be redirected to the Ministry of Social Development and Family Services and apply for that grant there. So we really need to improve or increase on the understanding on the public education programmes and so on.

Now, another factor that we need to take into consideration, Madam President, is self-attitude. And this is where building voluntary compliance comes in. Self-attitude, Madam President, is dependent on several external factors, equity of the national insurance system. Right now you contribute—you make 750 contributions regardless at—750 contributions without consideration for the quantum of contributions that you make and you are entitled to the same

retirement.

Another external factor is the quality of health care received. So, yes, the—we have employers coming on to becoming registrants and contributing but what about the quality of health care received, both in the public and the private health care system? In terms of, Madam President, you are paying this national insurance, what am I to get out of it?

Madam President: Sen. Deonarine, I have to caution you here. I think you are moving beyond the ambit of the Bill. Okay?

Sen. A. Deonarine: Thank you, Madam President. So, Madam President, what we are trying to do with clause 4 is, we are trying to increase or improve on compliance. Clause 4 seeks out to have unregistered persons the opportunity to become registrants with the National Insurance Board. So we are trying improve compliance to the National Insurance Fund. So the point that I am trying to make, Madam President, is that, we cannot simply think about clause 6 by increasing the fines to deal with the compliance problem. Increasing fines is not sufficient. It may help but it is certainly not the solution. We have to create conditions to encourage voluntary compliance as well.

So, I am concerned that what may end up happening and I have said this before and just to repeat. I am concerned that what may end up happening is that, the cash flow constraints of micro and small businesses coupled with the increased penalties may, in fact, serve as a disincentive for unregistered employers to get registered with the National Insurance Board.

Madam President, as a result, to increase the likelihood of unregistered employers entering the system, I would recommend that the amnesty be extended for a period of one year until June 2023 to allow firms with constrained cash-flow positions to make these payments in small increments.

Further, looking at clause 4 as well, and Sen. Mark spoke at length about it, the Minister of Finance is given the power to the extend the duration of the amnesty period. Madam President, I would highly recommend that this power of the Minister of Finance to extend the amnesty period be done upon the recommendation of the National Insurance Board because it is not stated in the subclause. It should be stated clearly that this is being done upon the recommendation of the National Insurance Board.

So, Madam President, as I begin to wrap up, I would like to say that in the interest of the long-term sustainability of the fund which is the objective that this Bill partially is setting out to achieve, policy-making to deal with this ongoing issue, cannot endure a further delay. The policy response to the ongoing challenge of this NIB fund in the Bill before us today may not necessarily reflect all of the parametric changes that are recommended by the 10th actuarial review. However—so I would urge the Government to quickly respond with carefully considered policies that strike a delicate balance between the sustainability of the National Insurance Fund and the social welfare of contributors and eventual beneficiaries of the fund.

Because, Madam President, each of those recommendations, while they may improve the sustainability of the fund, such as freezing or reducing pension, increasing contribution rates, increasing retirement age, we have to take into consideration that they do have social repercussions on beneficiaries and contributors. And these repercussions must be carefully managed when we are considering these policy changes. With those few words, Madam President, I thank you

Hon. Senators: [*Desk thumping*]

Madam President: Hon Senators, at this stage I will revert to item eight on the Order Paper.

URGENT QUESTIONS**Customers without Potable Water Supply
(Measures to Address)**

Sen. Mark: Yes. Thank you, Madam President. Madam President, to the Minister of Public Utilities: Given that approximately 200,000 WASA customers are at present without a potable water supply, can the Minister indicate what contingency measures have been put in place to address the needs of said customers?

Madam President: Minister of Public Utilities.

Hon. Senators: [*Desk thumping*]

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Madam President. Madam President, the heavy rainfall experienced throughout Trinidad and Tobago over the past 24 hours has negatively impacted the operations of WASA as flooded rivers have increased the turbidity of water in water treatment plants and river intakes, as well as clogging screens and reducing flows to pumps at these facilities.

As consequence, Madam President, several water treatment plants in north Trinidad which is heavily dependent on surface water sources have had production flows reduced or had to be temporarily shut down. WASA has advised that the following areas have been impacted. In north-east: Caura, La Pastor, Mc David, Acono. In north-west: Rincon, Grand Curacaye, Pipiol reservoir, Susconosco. In south: Trinity, Biche, Petrotrin, Guayaguayare. In Tobago: Hillsborough West, Highlands Road, Courland and Richmond.

Madam President, WASA has advised that as at 11.00 a.m. today 15 out of the 28 or 54 per cent of water treatment facilities affected have returned to full operation.

Hon. Senators: [*Desk thumping*]

Hon. M. Gonzales: And that with the exception of Matura and Tompire which are experiencing high turbidity, the operations at all other water treatment facilities are expected to be fully operational by 6.00 p.m. this afternoon. Matura and Tompire are expected to be restored overnight.

The authority has further advised that it has dispatched teams to all facilities in order to restore service at the earliest opportunity and that it has increased water-trucking service to all affected areas in order to supplement lack of supply to some customers.

Hon. Senators: [*Desk thumping*]

Hon. M. Gonzales: Madam President, I wish to commend the WASA workers, the management and the board for their prompt action in this regard.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Mark.

Sen. Mark: Yeah. Madam President, can the hon. Minister indicate the 46 per cent that are still without water. The Minister has indicated that by—is it by 6.00 p.m. this evening you expect a full resumption of the water supply to the remaining 46 per cent? Could you clear the air again on that matter?

Hon. M. Gonzales: Madam President, as I have said, at this point in time at 11.00 a.m. 54 per cent of the facilities that were down have been brought back into operation. The remaining percentages or the remaining plants, most of which will become operational at 6.00 p.m. But with respect to the Matura area, the Toco area, the river levels continue to be high. The weather conditions are improving and we expect those two plants in the Toco and Matura area to be brought back into operation by 12 midnight.

Sen. Mark: Can I ask the Minister—

Madam President: Sen. Mark

Sen. Mark:—through you, Madam President, when the Minister said they have been fully operationalized or brought into full operation, 54 per cent, can the Minister indicate whether the residents and/or customers of WASA are now in possession or are now in receipt, I should say, of a regular water supply which would have been disrupted as a result of the matters identified earlier by the hon. Minister?

Madam President: Minister.

Hon. M. Gonzales: Thank you very much, Madam President. Madam President, let me take the opportunity to educate Sen. Mark.

Hon. Senators: [*Desk thumping*]

Hon. M. Gonzales: When a plant is in operation, Mr.—Madam President, I do apologize, it takes pressure to build before water is distributed to several areas. Depending on the location of a community, it may require at some point to shut off water from some areas in order to get the requisite pressure to build to communities on higher elevation. And therefore, when a plant comes back into operation, water is now distributed to the very—to the various communities served by that plant in accordance with the schedule provided by the Water and Sewerage Authority.

4.30 p.m.

Madam President: Next question, Sen. Mark.

Matelot and Grande Riviere

(Address of Flooding and Landslips)

Sen. Wade Mark: Thank you. Thank you, Madam President. To the Minister of Rural Development and Local Government: In light of persistent rainfall in north-east Trinidad resulting in the Matelot and Grande Riviere communities being disconnected from the rest of the country, owing to flooding and landslips, can the

Minister indicate how is this situation being addressed?

Madam President: Minister of Rural Development and Local Government.

Hon. Senators: [*Desk thumping*]

The Minister of Rural Development and Local Government (Hon. Faris Al-

Rawi): Thank you, Madam President. Madam President, I thank the Senate, through you, for allowing us the indulgence of coming after question time. We were at the Post-Cabinet press conference. I thank Sen. Mark for the question. Madam President, as you are well aware we have been watching the weather system since Sunday and we went into high activation levels. I am pleased to say that as I stand before you now, all 10 landslips have been completely removed. The Ministry of Works and Transport—

Hon. Senators: [*Desk thumping*]

Hon. F. Al-Rawi:—the Ministry of Rural Development and Local Government, and the regional corporations, and volunteer contractors all went to work. We monitored the situation since yesterday. As at nine o'clock last night, electricity and water were returned. Forty residents who were affected were removed, put to sheltered areas. They are now back on-site cleaning homes with the assistance of CEPEP and the Ministry in supervision. Rivers are being monitored, bridges and drains are being dealt with by the Ministry of Works and Transport. So, there is an entire collaborative effort. But I am extremely pleased that the plan of the Government to spot assets nearby resulted in us being able to deal with what would normally take days to be done in a matter of hours. So, I wish to thank especially the residents of the area for also turning up. God willing many of the residents would be back home tonight.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Mark.

Sen. Mark: Yeah. Can I ask, through you, Madam President, to the hon. Minister, whether any bridges would have been damaged or require urgent repairs as a result of the flooding that they experienced, that is the people of Grande Riviere, during the last few hours? Can the Minister indicate whether any bridges have been damaged and require urgent repair to reconnect the village of Grande Riviere to Toco?

Madam President: Minister.

Hon. F. Al-Rawi: Thank you, Madam President. Madam President, the Ministry of Works and Transport, they have a very efficient team that is on-site. They are literally conducting assessments now. Whilst there were no obvious signs to the naked eye and whilst all access has been reopened, I understand that the Ministry of Works and Transport is engaged in that very exercise of proper engineering surveys.

May I add, Madam President, we are keeping a careful watch upon two weather systems that are forming as we speak right now and that there is a real risk. Even though the system is currently disorganized, it is on the meteorological map right now and we are asking people to remember that with continued rainfall, there is continued risk. We remain in constant high priority mode and we would do the very best that we can.

Madam President: Sen. Mark.

Sen. Mark: Can I ask again, Madam President, through you, to the hon. Minister: Minister, can you tell this Senate, or explain to us, or give us some indication as to what kind of assistance that the 40 families would have required and whether the Government through its agencies have been able to provide same?

Madam President: No. Sen. Mark, that question does not arise. Okay?

NATIONAL INSURANCE (AMDT.) BILL, 2022

Madam President: Attorney General.

Hon. Senators: [*Desk thumping*]

Madam President: Yes, Attorney General.

The Attorney General and Minister of Legal Affairs (Sen. The Hon. Reginald Armour SC): Madam President, thank you for allowing me the opportunity to speak on a Bill being:

An Act to amend the National Insurance Act, Chap. 32:01 to provide for the waiver of penalties and interest, to increase the penalty for the provision of false information, to increase the statutory limitation for the commencement of summary proceedings and other related matters

Madam President, I subscribe to the view that it is always useful when one is undertaking a legislative exercise, such as that which we are about today, speaking to the long title which I have just read, to have an appreciation of the history which has brought us here. Because it is through that history that we will form an appreciation and have a proper understanding of the focus and purpose behind any legislation, and this amendment and its parent Act is no exception. And in understanding the significance and relevance of the historical sequence of events which led to the enactment of the parent Act, the National Insurance Act, Chap. 32:01, which this amendment seeks to improve, I am of the view, respectfully, and on behalf of the Government, that it is appropriate to take some cognizance of that history.

So, we remind ourselves that as far back:

“...as 1958, a small unit of Public Servants was assembled by the Ministry of Finance and set up in 1966 under the direct supervision of...”—the—
“Parliamentary Secretary, to undertake proprietary work for developing a

comprehensive system of Social Security for Trinidad and Tobago.

Two major development resulted from the work of...”—that—“Unit. Firstly, a Division of Pensions and National Insurance was established in the Ministry in 1968....secondly, a White Paper on Social Security for Trinidad and Tobago was prepared and circulated for public comment in September 1968. Following on this, a Tripartite Conference on Social Security was organized to examine in detail the contents of the White Paper and comments associated therewith.”

As a result of which, at—“...the conclusion of...”—that—“Conference, a new document was published incorporating the combined views of government, Business and Labour.”

So, it is relevant, as we appreciate the history of the legislation, which we are now seeking to amend for its improvement, to appreciate that the tripartite exercise of government, business and labour is what has contributed towards providing the social security net which this Government is committed to and always seeks to improve for the benefit of the citizens of this Republic.

“The next stage in the development of the National Insurance System”—
Madam President—“related to the drafting of the relevant legislation.

The first step required...enactment of registration laws, which put an obligation on employers to register themselves...”—and that is what we are about here today. We are about examining the prospects of increasing the breadth and scope of the registration of employers as permitted by this amendment—“...and to ensure the registration of workers in their employment.”

The intention being, to provide a social security net for the benefit of the workers of this country who would be required to contribute through compulsory

deductions from their insurance as well as the employer. So that, at the end of the day, the people of this country will benefit from the pool that is gathered and invested out of the savings derived from this social security net, the national insurance system.

The next step, Madam President:

“...involved the enactment of the principle legislation, provided for the establishment of a National Insurance System, deriving income...paying benefits from compulsory contributions paid by employers and employees. The principle instrument...”—that is to say, Act No. 35 of 1971—“made provision for the management of the system, its mode of operations, the proclamation of appointed days for bringing the system into operation and for the introduction of several benefits, and other related matters.”

As today, we come once more before this House to seek to improve on that national legislative package.

It is immediately and—“...readily appreciated”—Madam President—“that the introduction of a system of such magnitude, directly...”—affected the lives of a substantial percentage of the citizens of Trinidad and Tobago.

And not only was that legislation introduced legislatively but it was preceded by a significant education system—

“...education campaign...”—which took place over—“a period of almost two years and involved every member of staff...”—of the government, relevant arms—“Seminars, lectures, discussions and informal talks...”—all geared towards the inclusive involvement of the citizens of this country to appreciate and to value the national insurance scheme that was being brought into being.

And law, Madam President, must be pragmatic as well as visionary. And

against that historical reality of the legislation, what do the amendments now seek to do? They provide for a waiver of penalties and interest due under section 39B on interest in respect of any contribution outstanding at June 30, 2022, by an employer, where the contribution is paid during July 01 to December 31, 2022. The amendments provide an amnesty on penalties, an interest on national insurance contributions for the period July to December, which will also allow errant employers to register with the National Insurance Board. This is not, Madam President, about giving a “bligh” to persons who have failed to register. This is about allowing, by an enabling provision in the legislation that this is being amended, registration of employers who have not previously registered under the national insurance scheme.

And what is the benefit that is derived from that? The benefit that is derived from that, the entire package is estimated to earn \$161 million for the National Insurance Board in the very first year and a further \$792 million over the next 10 years. The Minister of Finance, in his earlier contribution, in the other place had spoken to that and today, Sen. Deonarine—Independent Senator Deonarine spoke of that again. We cannot lose sight of that substantial benefit because, at the end of the day, what is happening is that the Government is passing legislation, asking this House to endorse its intention and its efforts to pass legislation to broaden the base, the monetary and financial base of the national insurance scheme to benefit the citizens of this country. Not to forgive persons, but to broaden the base. Because those employers who are not currently registered, who take advantage of the amnesty that is going to be provided under this legislation when we pass it, will become registrants under the system and able to be regulated into the future by the national insurance legislative scheme whilst bringing into the treasury of the National Insurance Board the sums of money in the immediate short term. That is a

substantial benefit that is going to endure for the people of this country.

Hon. Senators: [*Desk thumping*]

Sen. the Hon. R. Armour SC: And it is not a benefit that does not come without a burden. So, again, it is not forgiving persons for not having previously been registered. What this Government is asking this august House to do is to pass amendment legislation to increase the penalties for the provision of false information by section 63(1), which is currently \$2,000 and imprisonment of six months, to an increase of \$50,000 and imprisonment for three years. Similarly, an increase in the statutory limitation for the commencement of summary proceedings within 12 months from the date of the commission of the offence to a period of three years.

So, these are incremental steps that are being taken in the interest of addressing proportionality in the legislative scheme that the Government brings to this House, in the public interest of providing benefits to the population of this country and with the requirement of careful balancing of the interest which is the hallmark of democratic governance.

Additionally, improvements to be effected will strength the provisions of the substantive legislation to ensure effective enforcement of the Act, thereby ensuring that the NIB is better able to pursue those who submit false information, documents or statements. And this would allow for accountability and the robust and comprehensive management of the National Insurance Board by internal processes and the procedures adopted.

And then, there is the provision that allows the Minister to make an order, Madam President, to exercise the making of an order in light of the benefits aforementioned which enables the efficient and effective operation of the NIB in furtherance of its functionality and the improvement of our national insurance

system.

In reading, as I tend to do around a subject, I had the privilege—and I will end on that note, Madam President. I had the privilege to look at the 2020 Annual Report of the National Insurance Board of this country, which is now chaired by former Independent Senator Mrs. Helen Drayton. And it is instructive, one of the highlights that has been provided by Madam Chairman, former Sen. Drayton, in that statement in her opening remarks. She spoke to the resilience of the National Insurance Board in the face of the pandemic and she says:

“Our response was guided primarily by the core values of resilience and resourcefulness. The Strategic Plan 2020-2024 was reviewed and reworked, taking into consideration the new constraints and threats posed by the pandemic. To this end, in August 2021, we concluded the revision of the Plan, which features (5) major Strategic Themes, namely: Governance & Legal; Empowered, Engaged & Enabled Workforce; Customer Experience; Compliance & Collections; and Leveraging Technology.”

Madam President, it is my privilege and my pleasure to commend this legislation to this House and wholeheartedly to embrace it on behalf of the Government. Thank you very much.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. John.

Sen. Jearlean John: Thank you very much, Madam President, for this opportunity to join the debate and as Sen. Mark would have stated, the NIB, the National Insurance Board, is a unique organization led by a tripartite board, comprising government, business and labour. Madam President, this organization serves the working class of our country and the Minister in the Ministry of Finance called it the “linchpin of the social safety net”.

Madam President, in looking at the six clauses before us, which represents the amendments, one cannot see how this helps the National Insurance Board to solve the problems they have been flagging to their reporting Ministry and to the population as a whole. The NIBTT has an urgent problem, one which they referred to as “fund unsustainability”, meaning, Madam President, if the status quo is maintained, if no reform of the system is undertaken, the revenue of the NIBTT will eventually not be sufficient to cover the expenditure, meaning the benefits and the administration of the system.

Madam President, accordingly in the NIB tenth actuarial review, they said it is projected that by year 2024—well, they said within two to four years, there is a growing shortfall which is currently being supplemented by investment income and in the next two to four years, the assets may very well have to be liquidated to ensure that the benefits can continue to be paid to these folks who are working class. And, Madam President, yes, I am making a point here.

So, in addition to their fund unsustainability by 2024, the assets of the NIB are projected to be exhausted also and the actuarial review is saying by 2036. So, consequently unless there is a change—and the amendment before us does not signal that there is an intervention to impact or pervert the impending crisis. Because clause 3 of the amended Bill will read in its entirety, that is 39B in the parent Act:

“Where any employer fails to pay the amount of contributions payable by him to the Board under the provisions of this Act by the fifteenth day after the due date, he shall be liable to pay—”

And that is what is now existing. So, the NIB, as they are now, they are compelled, one, to demand:

“(a) a penalty of twenty-five per cent of the outstanding sum...

- (b) penalty of one hundred per cent of the outstanding sum, where the period for which the contributions were retained, is in excess of five years; and
- (c) interest on the entire sum (penalty and outstanding sum at the rate of fifteen per cent...”

And as Sen. Mark would have indicated, this now is being waived by the Minister, because 39B(2), the new clause—the new insert, sorry, is that:

““The Minister may, by Order, provide for the waiver of penalties or interest due and payable under this section.””

Madam President, I cannot see how these amendments before us helps the NIB, with respect to their fund unsustainability, if it is the Minister is given this power to—an open-ended unexplained power to waive penalties and interest for businesses.

Now, what has been stated by the Minister in the Ministry of Finance is that this is to help the vulnerable companies or to give them a break. And if that is so, maybe that is a good thing, but we do not know because the Minister did not present to the Parliament a list of the potential companies because it will be before the NIB’s database, the companies which are now delinquent. And I think that would have helped the cause and one will not have been suspicious about this carte blanche waiver.

Currently, there are—well, I mean, the NIB had a list as at 31 January, 2022. That could have changed by now and perhaps the hon. Minister in his winding up will indicate because there were—is it that, I want to ask a question first, that this waiver will be attributable to government organizations also, meaning state—not state companies perhaps, but government departments, government Ministries? Because as at 31 January, 2022, there were 113 public entities who had outstanding

contributions due, but not only contributions, contributions, penalties and interest owing to the NIB, and this is as at 31 January, 2022, and totalled a sum of \$267,229,529.08.

Madam President, this is, as I said before, contributions, penalties and interest owed by government agencies, government departments. And one wonders if the number of employees who will be affected—if these departments are not paying their contributions to the NIB, is it that when these workers present their request for whether it is funeral benefits or maternity benefits or retirement benefits, what happens to them in a case like this? Because we are talking about in excess of quarter billion dollars.

So, Madam President, as much as businesses must honour their statutory commitment to NIB, part of the solution is not only by, okay, you are going to give a waiver. But what the NIB would have said in one of their own review, the last review of their business model, I think they called it the report on operational and financial operations for the year—the last one I would have seen was the 30th of June, 2020. I do not know if there is one that is more updated. But they referenced the fallout from COVID and the businesses that would have shut down. Because when businesses are not paying contributions then, of course, that impacts the NIB.

So, therefore, there is a role for the Government in this, in terms of expanding the economy, ensuring that people feel confident in expanding their own businesses so that they can grow their businesses which will reflect in more contributions to the NIB. And, of course, that is not here before us now in terms of some of the ideas and the suggestions or the recommendations from the actuarial review. And these are not here and they should have been before the Parliament maybe seven years ago, five years ago or even two years ago. And even today, what is coming is this waiver in terms of the NIB giving up money again in this

scheme, where the Minister has sole jurisdiction and authority.

So, Madam President, the gap between the NIB's revenue and expenditure is projected to be about \$6 billion in 2036. And one will want to know how will this bailout, or whatever the Ministry wants to call it, how will this help in this gap that is approaching, that they know is projected? And again, nothing is being done because this NIB really is the people—the working class really depends on this social safety net. I have heard people, when someone dies in the family, talking about going to the NIB for the funeral grant or the funeral benefits. And this is paid, it appears, very promptly to them and it helps, it mitigates against the worry that the family would have at that time. Sometimes workers, employees who have become pregnant and they have the baby, the company does not pay maternity benefit but the NIB does that and, again, it appears promptly. And people really depend on these benefits. So, basically, this is not something that we can take lightly, that if there is a gap and the NIB is signalling, that whatever it is, that it will be recovered during this period of waiver, that it is enough to close that gap.

So, Madam President, the three main recommendation within this the tenth actuarial review—I think there is an eleventh one the NIB would have put before the Ministry. And what I have been reading subsequently is that up to now, they have not heard anything from the Ministry and perhaps the good Minister in the Ministry will be able to tell the Parliament if it is that they have flagged these recommendations and that they are working on them and they have put them on the front burner because we can ill afford to be without the benefit of the NIB as it were.

Madam President, what is being suggested for section 39C of the Bill, again, this has to do with the period of the waiver. But notwithstanding that, I think it goes further, where 39C is now saying that, notwithstanding this waiver between

01 July, 2022 to 31 December, 2022, that:

“(4) Where an employer fails to pay his outstanding contributions by 31st December, 2022...”

—and I am just moving ahead, summarizing, in subsection (5) of that section, Madam President:

“The Minister may, by Order, prescribe a later date...”

Again, this kind of open, very expansive powers to the Minister that he could decide, even after this period of waiver, that into perpetuity, that basically employers can continue to enjoy this waiver. And one wants to know why is this necessary? If it is the NIB is flagging that, they are trending in the wrong direction and it is not because they are not trying based on their records, Madam President. Because NIB has—and I think the question was asked here earlier. NIB as at December 31, 2021—and, of course, we are now in mid-2022, but they had 1,029 files with deaths totaling 73.34 million which they had forwarded it to major debt collection.

In December of last year, notices of intended legal action were sent to 392 employers in respect of 43.61 million indebtedness, while 240 matters valued at 26.61 million were submitted for referral to the legal services. So, they are working. What maybe the Ministry needs to do is to strengthen the NIB's ability to collect in terms of their collection and not to give away because they could ill afford, Madam President, this giveaway at this time. What is needed, what the NIB is calling for in their documentation is institutional strengthening to ensure that they can audit on a timely basis and follow up; not only audit, because they have been auditing, but follow up on these audits and assist businesses with resolutions to pay.

5.00 p.m.

Because, of course, we understand that businesses will fall on hard times, and during that period of COVID some of them would have been—I mean some made supernormal profits, but some would have been very challenged, but the answer is not to give the Minister power to waive without any oversight because this cannot be viable. This is not what the NIB had asked for. There is nowhere in their documentation that they asked the Minister of Finance to waive what is due to them in terms of their fees or their contributions and, of course, by now the penalties and the interest, Madam President.

Again in the NIB corporate strategy, 2020—2024, they have said the major challenges were fund sustainability, employer's compliance in terms of getting employers to comply. They are looking at their internal processes. So this form, as far as the knowledge of people who run NIB, they are saying this is what is aiding us, this is what we need your support in. But it appears as if this is all sitting on the Minister's desk and they cannot care less about that. They also need legislative amendments to the law. They have called for that too.

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

They did not say they want there to be amendments which only has to do with waivers, Mr. Vice-President.

The NIB has said they continue to engage their stakeholders and to conduct the employer's audits, but, of course, that is one of the measures implemented to secure increased contribution. What they need is increased contributions not less by way of these waivers, because what the waivers will do is just give them less. And on top of that, even when the period of the waiver, that six months, would have expired, the Minister has this authority now, which will be given to him, I suppose by the Parliament, to go and—in forever it seems—in terms of allowing this employer to not honour his commitment. And one really want to know what

happens to the employee should they need to call upon those benefits at the point in time whilst the employee is trying to sought themselves out.

Mr. Vice-President, the last two sections of, I think it is 63(1) which would have changed and the speaker preceded me would have spoken about the enhanced period of time in terms of the punishment which will be attributable to someone who is found in contravention of the policies of the NIB whether it moves from \$2,000 now to I think 50,000, and a jail term of six months to three years. Now you first have to “ketch” people and really get them to the court through the system, et cetera. So this I do not know how that will help and whether that will be a deterrent in any way, and how that helps the NIB in closing that gap and ensuring that they have fund sustainability, Mr. Vice-President.

So consequently, Mr. Vice-President, unless there is a change, the eventual inability of the NIBTT to cover its benefit and administrative expenditure and the resulting social and economic impact to the country, without any significant fiscal bail out—because that is not before us and the time is still running—they have indicated that the gap between revenue and expenditure is projected to be more than or just about \$6 billion by 2036. So there are recommendations which have been outlined in the pension reform in their Tenth Actuarial Review, and again I reiterate the three main recommendations were an increase in the contribution rate, the introduction of early retirement factors, and, of course, for persons retiring before age 65 and the freezing of pensions payment.

I mean one is not arguing whether this is right or wrong, but certainly it has not been brought before the Parliament and basically it seems as if it is not attracting the urgent attention of the Minister of Finance at this time. And, Mr. Vice-President, I think this is where the Ministry of Finance needs to be attributing their time and energy to ensure that that gap can be closed and that the NIB can

remain viable in the interest of the working class. Mr. Vice-President, I thank you for this opportunity.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen Charrise Seepersad.

Hon. Senators: [*Desk thumping*]

Sen. Charrise Seepersad: Mr. Vice-President, thank you for the opportunity to contribute to the debate on the National Insurance (Amdt.) Bill, 2022. The Bill seeks to amend the National Insurance Act, Chap. 32:01 to:

1. “...provides for the waiver of penalties and interest...”—on—
“...outstanding...”—national insurance—“...contributions...”—as of
June 30th, 2022. Clauses 3 and 4;
2. “...increase the penalty...”—for the provision of—“...false...”—
information. Clause 5; and
3. “...increase the statutory limitation for the commencement of
summary proceedings...” Clause 6.

Mr. Vice-President, clauses 3 and 4 of the Bill provides for the waiver of penalties and interest on NIS contributions due as of June 30th, 2022. These outstanding contributions must be paid between July 1st and December 31st, 2022. Further, the amnesty applies to existing employers and those employers registering between July 1st and December 31st, 2022. These amendments do not waive penalties and interest on contributions due between July 1st and December 31st, 2022.

Mr. Vice-President, the objective of the amnesty proposed in this Bill is to balance the need to increase the collection of outstanding NIS contribution and increase the number of registered employers, and the imposition of severe penalties and interest for noncompliance. This is a business decision to deal with the serious underfunding of the national insurance fund. Further, the employer will benefit

because they become compliant, and the employee will benefit because they are now entitled to all the benefits offered by the National Insurance Board including pensions.

The National Insurance Act, Chap. 32:01 defines “employer” as:

“...a person who employs at least one person under a contract of service or to whom another person is apprenticed;”

An “employed person” means:

“...a paid apprentice, a self-employed person or anyone who is employed under a contract of service;”

These definitions are relevant especially during the two years of COVID-19, 2020 and 2021, when businesses were forced to operate below capacity or not at all.

During this period, revenue inflows were reduced to a trickle and many employees were furlough or terminated. Further, several small business would have shut their doors permanently.

“Contribution year” means the period of fifty-two weeks or fifty-three weeks beginning with the first Monday in July in any year and ending on the Sunday immediately before the first Monday in July of the succeeding year;”

Mr. Vice-President, I am of the view the amnesty should waive penalties and interest on all national insurance contribution payments due up to July 2023, and the amnesty should be effective from July 2022 to July 2023. Therefore, the amnesty will include the two years when business operations were negligible, 2020 and 2021, and two years 2022 and 2023 a period of business recovery. Also, Mr. Vice-President, any further extensions of the amnesty as proposed by clause 4 should be done in consultation with the National Insurance Board.

Clauses 5 and 6 of the Bill provides for the strengthening of the enforcement provisions against those persons and employers making false statements, or

misrepresenting information to the National Insurance Board. The fine is \$50,000 and three years' imprisonment on summary conviction. Mr. Vice-President, it goes without saying that the increased penalties alone will not achieve the desired result without vigilance by the National Insurance Board. The track record of convictions in the past is not encouraging. Like Sen. Vieira, I am interested to hear what the hon. Minister of Finance has to say on this matter in his winding up of the debate.

The National Insurance Board is expected to be extremely vigilant to determine, identify, and deal with unscrupulous employers and employees who try to commit fraud in the registration process. During the amnesty, the National Insurance Board should also continue its auditing exercise and pursuit of the collection of contribution arrears from employers. The National Insurance Board also has a database of all the people who claimed unemployment relief benefits as part of the COVID-19 unemployment relief benefits. That data can be used to find people who should have been paying NIS contributions, but were not. Mr. Vice-President, again, the key question here is the ability of employers to pay.

The last NIB amnesty in 2012 resulted in the collection of \$36.8 million in outstanding contributions and the registration of 2,310 employers. In 2017, the National Insurance Board estimated that 84 per cent of employers were registered and contribution income of \$906,000,000 million was lost because of unregistered employers. Given the reduced business activity in the past two years, it is reasonable to expect that this proposed NIB amnesty will not yield the same results. Therefore, it is conservatively estimated that \$161 million will be collected during the amnesty, and \$792 million will be collected over the next 10 years.

Mr. Vice-President, the growing problem of declining contribution and increased pension payments from public pension funds is a problem that exist all over the world, not only in Trinidad and Tobago. This issue needs critical

attention, and while the hon. Minister of Finance is attempting to enforce timely payments and for provision of accurate information through this Bill, more needs to be done. For example, the Tenth NIB Actuarial Review projected that by 2066 Trinidad and Tobago's 60-plus population will be almost double its current size, while the number of people in the 16 to 59 age group will decreased by at least 25 per cent. The review estimated that the ratio of contributors to pensioners will decrease from four to 1.6 over the projection period. This means that the current problem will only get worse if the necessary adjustments are not implemented.

The problem of the aging population and declining contribution based is compounded significantly by the pension subsidy. When the minimum pension of \$1,000 was implemented in 2003 and subsequently increased to 2,000, and then \$3,000 without a sustainable source of funding, the national insurance fund has subsidized this minimum pension. The average calculated pension is approximately \$1,600 per month per pensioner and the fund adds approximately \$1,400 per month per pensioner. Approximately \$20 billion has already been paid out in subsidies.

Mr. Vice-President, the proposed amnesty is a temporary fix. From 2013 to date, investment income required to cover annual expenditures and the gap between contribution income and benefit expenditure, has grown each year. This is estimated to be \$6 billion by 2036. Mr. Vice-President, given these real problems I have four recommendations:

1. The retirement age: The NIS retirement age is 65 years, but an employee has the option to retire at 60 years and receive a monthly pension of \$3,000. Consideration should be given to formulizing the retirement age at 65 years and a prorated pension be paid for each year a retirement benefit is claimed between 60 and 64 years. Many

countries are changing their retirement rules by increasing the retirement age. Some examples are: United Kingdom and Barbados, 67 years; St. Lucia, Antigua and Barbuda, 65 years.

2. Minimum number of contributions: The minimum of contributions required to be paid to receive a full pension is 750. Mr. Vice-President, this equates to 14.42 years. This should be reviewed to determine if this is a realistic threshold.
3. Domicile: People who have migrated and have already made their mandatory 750 contributions contribute nothing further to the fund but are due a full pension. Consideration should be given to imposing a domicile rule similar to what applies to the Government pension.
4. Widen the net of working persons who contribute to the national insurance fund, whether through formal, informal, self-employed, or cottage industries.

While the proposed amendments waived the penalties to achieve the objectives of collecting NIS contributions and enforcing the provisions of accurate information by both employers and employees, due consideration must also be given to the period of business inactivity and the ability of employers to pay. The current economic situation also weighs heavily on business performance as the hon. Minister of Finance is aware. Some logic, leniency and reasonableness therefore must be brought to bear in enforcing the amendment to waive penalties and interest for NIS payments. Mr. Vice-President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Minister of Public Administration.

Hon. Senators: [*Desk thumping*]

The Minister of Public Administration (Sen. The Hon. Allyson West): Thank you, Mr. Vice-President, for the opportunity to contribute to this debate. Mr. Vice-President, in the last paragraph of the Executive Summary of the Roadmap to Recovery Report, No. 1, the report stated as follows:

“The strategies required for rebooting the economy and the wider society require partnership among the Government, private sector, labour and civil society, agility in the supporting institutions, and a culture that fosters productive, efficiency, performance and harmony.”

And why I am referring to that quote, Mr. Vice-President?

We will remember that in every budget and mid-year presentation, since the onset of the pandemic, the Government has acknowledged the significant impact that the pandemic has had and continues to have on the economy as a whole, and on the financial well-being of our individual and corporate citizens. While this is not unique to Trinidad and Tobago, and in fact is impacting all countries around the world, exacerbated as it is by the fallout from the war in Ukraine, we in Trinidad and Tobago continue to do what we can to alleviate the negative economic impact on the citizens of our country within the limits of our means.

We will recall, Mr. Vice-President, that the Government was obliged to take several measures in an attempt to mitigate the impact of the pandemic on our citizens. Our driving focus being on saving lives and livelihoods. The most significant of those measures, Mr. Vice-President, were the lockdowns of the economy and of social activity, other than those activities conducted by what were defined as essential services. All businesses, other than those essential services, were required to close their doors and cease activity. At the same time, Mr. Vice-President, very importantly, the Government encouraged employers in those sectors to the extent that they were able to, to keep their employees on the payroll.

So we were saying to people, “Please close your doors, please cease all economic activity, but if unto the extent that you can please continue to pay at least something to your employees.” A very big ask.

We sought to support these employees, but these employers in this endeavour by providing them with support either directly or through their financial institutions, by ensuring and supporting credit card and loan moratorium, soft loans, interest moratoriums, and/or interest reductions. These measures allowed the vast majority of businesses to weather the storm while we navigated a way out of the worse of the pandemic. Many businesses, thankfully, heeded our call to retain their employees on the payroll, and continue to pay them at least a percentage of their salaries so they could keep body and soul together and continue to feed their families. And God stepped into any gaps left by those businesses through its several relief programmes, most especially the Salary Relief Grant Programme and the Income Support Grant Programme, run respectively by the Ministry of Finance and the Ministry of Social Development and Family Services.

But, Mr. Vice-President, we were obliged to acknowledge that while employers quite laudably did what they could to keep employees on their payroll, they were bearing the burden of paying salaries in circumstances where they were earning little or no income. This applied even to those businesses that continue to operate as essential services. In this context, it could come as no surprise to us or to anyone that in seeking to manage their significantly repeated resources, that may of those businesses paid their employees but deferred settlement of the related PAYE and NIS obligations arising from those salary and wage payments. However, the law on these matters is clear.

Once a payment of salary or wage is made an employer is required to remit to the Inland Revenue on the one hand, and to the NIB on the other, the relevant

PAYE and NIS due from both the employer and the employee in respect of those salary and wage payments. Failure to remit those payments within the statutory timeline results in the imposition of a penalty of 25 per cent of the tax due in the first instance in respect of NIS, and interest of 15 per cent on both the tax and the NIS—both the tax/NIS and the penalty. So this is a heavy burden on employers in normal circumstances. Imagine how difficult it would be for them in circumstances where they are carrying employees who are not in fact working.

While we introduced the amnesty in mid-2021 to provide relief to those employers in respect of any taxes, including PAYE that would have accrued during the lockdowns and preciously, no such relief was provided in respect of NIS contributions. We are seeking to address that today. We are seeking to do that by repealing the existing section 39C of the National Insurance Act and replacing it with a new section 39C to waive penalties and interest due on outstanding national insurance contributions provided they are settled by December 31st, 2022. This will allow those employers who adopted the responsible and patriot position of retaining their staff on payroll during the lockdowns, while the employers themselves were not earning income and were therefore out of pocket.

We applaud those employers, Mr. Vice-President, who adopted that approach and allowed their employees to continue to support their families during those difficult periods. And this Bill seeks to provide them with some relief by relieving them of the burden of the penalties and interest that would otherwise be due on outstanding NIS contributions, but it goes further than that. It seeks to provide relief also for delinquent employers who, outside of that lockdown period of worldwide strife, have failed for whatever reason to comply with their national insurance obligations. So this Bill gives us the opportunity to do several things. It gives the opportunity for persons who have not registered and complied with NIS

to do so and regularize their position. It gives the opportunity for persons who are registered but have outstanding obligations to regularize that position.

Hopefully, it will fill some of the contribution gap that the NIB has been complaining about for quite some time and has not been able to adequately address and bring up to current. Hopefully also, it will bring on board employers and employees who will then be guaranteed the latter, who will then be guaranteed an NIS pension, and reduce the chance of those employees being a burden on the social security system which is already straining under the weight of its senior citizens pension programme. And finally, it will allow us to more accurately gage the obligations that need to be met by the NIS system as we seek to address the deficit that exists in funding and plan for retirement obligations going forward.

I have sought to get an idea of what our current circumstances in NIB versus Board of Inland Revenue look like, because we will acknowledge the fact that both the NIB and the Board of Inland Revenue collect contributions in respect of salaries. So since that is the case, they should, at least in theory, be able to match their records and terms of how many employees and how many employers I have in my system, and there should be some relationship between the two. So what do the actual statistics show? In respect of the NIB, the NIB had 20,714 employers on its system in 2019; 20,274 in 2022; and at the end of 2021, its employer register had dropped to 19,281. So it is obvious that during the lockdown there was a falloff in employers registered with the NIB.

How many employees do they have on the system? In 2019 the number of employees registered with the NIB, 420,000; in 2020, 404,000; and in 2022, interestingly an increase to 446,000. How is that compare with the Board of Inland Revenue figures? Whereas the NIB has at the end of 2021, 19,281 registered employers, the Board of Inland Revenue's estimate of its number of employers is

more in the region of 30,000 to 35,000. A huge discrepancy. And having regard to the fact that under the Board of Inland Revenue system the persons earning less than \$7,000 a month are not required to pay tax at all, one would expect more employees to be on the NIS system than on the NIB system and that is not the case. When one compares the number of employees registered under the IRD it is closer, 450,000 under Board of Inland Revenue versus 446,000 under the NIB.

5.30 p.m.

So there are obviously some discrepancies and obviously there is room for ensuring that everybody who is required to be registered is registered and everybody who is required to contribute is contributing.

It is my view that this amnesty will allow us the opportunity to have employers who are off of the system regularize their position, increase the number of registered employers and employees which can only work for the benefit of employees. It is not contrary to the comments made by Sen. Mark, something to benefit employers at the expense of the employees, not at all. The more employers we have registered is the more contributions they make on behalf of their employees which would then allow those employees to receive the benefits due to them.

So as I indicated, there are some discrepancies in the system and my vision is that as both organizations gather information from their amnesties—Inland Revenue would have had theirs a year ago. NIB we are proposing to have one now. As they also gather information that arose out of the relief programmes that the Government would have introduced during the lockdown as we paid out the salary relief grant, as we paid out the income support grants, the Government would have gathered information from the applications and can use this information, the combined information to put us in a better position going forward to ensure better

compliance and enforcement.

So the NIB has an enforcement and audit requirement as does the Board of Inland Revenue and, in my view, having worked with both entities in different capacities, they have different strengths and they can benefit from supporting each other, their synergies which can be explored and I am hoping with the full rollout of the TTRA and the increase in expertise that those synergies can be further explored to better provide for the funding of the NIB, which is where the real focus is this afternoon, to allow us to address all the other issues that were raised by Senators today about the longevity and sustainability of the NIB fund which we understand is under challenge.

And let me just make it clear that this bit of legislation that we are seeking to pass this afternoon is by no means the Ministry of Finance's response to that problem. It really has to do with providing relief to employers who have been having a difficult time on the one hand and to provide an incentive to those employers who have in the past ignored their NIS obligations to come on board. We clearly understand that there is a challenge with respect to the NIB funding and that is being addressed but do not take this bit of legislation as our response to that issue.

So let me address the specific comments made by a couple of our earlier contributors. Sen. Mark in his usual gas-lighting fashion made a couple of outrageous comments.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. A. West: The Minister of Finance is being given the ability to waive and waive penalty and interest and to benefit employers at the expense of employees and that is not correct and that is too much power. The provision in the legislation, which is in clause 6 of the Bill, clearly gives the Minister of Finance

only the authority to extend the amnesty period. This is not new. It has been given in the past and one can look at the circumstances in which the power was given and how it was exercised.

So the last couple of amnesties, the legislation included a power for the Minister of Finance to extend, the Minister of Finance monitored how the amnesty was proceeding, he would look out his window and see lines curled around the Board of Inland Revenue on the last day because Trinidadians and Tobagonians like to wait until the last minute to act and he would call the Board of Inland Revenue at the time and say, "How is the amnesty going? Have you had any challenges?" "Yes, Minister, we had tonnes of people who want to pay and have not been able to." And, in those circumstances, he will extend the amnesty by two weeks, not two years. So the apparent hysteria which we are trying to cause here is so unwarranted I cannot understand it. It is something that has been given, it has been tried, it has been tested, it has been properly used and so all we are seeking to do is to repeat that extension of power to the Minister to exercise it in those limited circumstances.

As Sen. Mark said again, it is pro-employer and anti-worker. A worker for example is not entitled to an NIS pension unless he can satisfy the NIS that he has made 750 NIS contributions to his account. If he cannot establish that he has difficulty getting his pension and so if we get those employers on board and have them contribute, then the employee is guaranteed or more guaranteed to get his pension without difficulty as well as his other benefits. So I do not see how regularizing the positions of employers who are the ones responsible for remitting contributions to the board on the employee's behalf is pro-employer and anti-employee. That makes absolutely no sense.

Sen. Deonarine mentioned that this is a temporary measure and it cannot

solve the problem and, as I indicated, this is not the attempt to solve the problem. We understand there is a problem and that is being addressed.

Sen. John indicated that the waiver will give the NIB less. In that context, I would like to remind Sen. John that in the tax amnesty before the last, the Minister of Finance estimated recovery of half a million dollars, we actually collected \$2.3 billion, and that indicates that there is money out there that is due to the Government—when I know say “the Government”, either the Treasury or the NIB of which the administrators are not even aware. So giving the amnesty allows the opportunity for the people owing this money to voluntarily come forward and hopefully increase the collections of the administrator so that they can better perform their duties. In those circumstances, I cannot see what the objection to this programme is.

The group of employers of whom I am most supportive in respect of giving this relief, as I indicated before, are those employers who heeded the Government’s call to continue to pay their employees during the lockdown while they were earning no income. I applaud those employers without reservation and I am sure that this measure, it is something that is more than due to them for the contribution that they made in helping us to fight the pandemic and to support their employees during that period.

With respect to the others, this, as I indicated, will allow us to bring at least some of them on board and recover money that we are not now recovering to contribute to the NIB fund. It works in everybody’s favour, it certainly works to the benefit of the workers and it is something that I fully endorse. Mr. Vice-President, I thank you.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Lyder.

Sen. Damian Lyder: Thank you, Mr. Vice-President, and I thank you for the opportunity to contribute to this Bill, the National Insurance (Amdt.) Bill, 2022 and I appreciate this chance to make a very small contribution having come so low in the batting line up and having this Bill so narrow in its nature, I will attempt to keep it within that narrowness and will have some very pertinent questions to ask the Government on the other side.

And, Mr. Vice-President, at first glance of this Bill and as a businessman, I can understand why business people will welcome an amnesty. I can understand that, not that I would need to avail myself of one of course. But I welcome an amnesty because there are people who at one point in time may be going through challenges in their businesses. But let me also say to you, Mr. Vice-President, that I agree with Sen. Mark that I do not support an amnesty for those companies that have been acting wrongfully and illegally and being delinquent in paying their contributions to the NIS for their workers and now being given “ah bligh” through this Bill.

But there are other companies that may be barely getting by as many have been struggling under this PNM for the last seven years of Government. Not during the pandemic you know, Mr. Vice-President, in this last seven years, we have seen companies struggle. There is no doubt that many of these companies will welcome this amendment and this waiver and amnesty today and that is, of course, if they are in a position to take advantage of it at all, because even with this amnesty, many will not be able to participate and I will expand on this a bit later in my contribution.

But for the benefit, Mr. Vice-President, of the struggling, near-to-bankrupt companies that really want to pay, really would like to pay, I support Sen. Mark’s recommendation that this Bill should stop today, should go to a joint select

committee or a special Senate select committee so that we can separate those who have been acting illegally, intentionally, holding back moneys from workers and those who truly suffer from the PNM pandemic of the last seven years. So that is what I believe and then, Mr. Vice-President, I can support what the acting Prime Minister and Minister of Finance in the other place and now the Minister in the Ministry of Finance who is piloting this Bill here today, then I can support this Bill.

And, Mr. Vice-President, just for clarity, I do not want to be in breach of any Standing Orders. Am I still correct in assuming that I can still refer to the Minister of Finance as the acting Prime Minister? I can still refer?

Sen. Gopee-Scoon: Yes.

Sen. D. Lyder: Yes, okay, thank you. So I assume the Prime Minister is still away, all right. Well we hope—we wish him a speedy return to the country, hope all is well in foreign on all accounts and that he will be return quickly because the country is banking on him.

Mr. Vice-President: Senator, Senator.

Mr. Manning: Mr. Vice-President, 46(1) please.

Sen. D. Lyder: Yes?

Mr. Vice-President: 53(1) of relevance.

Sen. D. Lyder: Or okay, I just—

Mr. Vice-President: You promised to stick to the narrow part of the debate and I hope you stick to it.

Sen. D. Lyder: Yes, yes, thank you, Mr. Vice-President. I will do, I just was wishing all the best. I want to encourage delinquent employees to come up-to-date and make right on their obligations to the National Insurance Board. But I will point to some of the challenges to the Government in this occurring. You see, Mr.

Vice-President, when I look at clause 4, I see that the beneficiaries of any national insurance pay out would be the employees and the retirees who need their insurance payment to be made in whole. The challenges with this Government is the lack of implementation of anything that they bring. Therefore, despite companies being given an amnesty on fees and on interest charges, the big question that arises is whether or not these employers will be tasked by the State to meet their payments during this waiver.

You see, Mr. Vice-President, some really good questions came here today. I heard Sen. Vieira ask some pertinent questions earlier. He asked how many people have been charged under section 63. Sen. Vieira asked, how many cases would have been brought forward by the NIB? And he stated if we do not enforce it makes no sense. I agree. I agree with that. Minister West in her contribution stated that—she rambled a lot of statistics, numbers, discrepancies in the system but there are still very pertinent questions that have not been answered here today or that have not been presented by Minister Manning here today. Because I have some questions that I would like to ask for the record.

What is the quantum of funds owed to the National Insurance Board by these employers? We heard Minister Manning come with an estimate of over 4,000 who they think are non-compliant. So “they estimate 4,000 non-compliant”. But I am asking if you know 4,000—you are estimating that 4,000 is non-compliant, how do you not know how much is being owed to the State right now? How is that not being presented here in numbers? Another question I have is, what percentage of these funds owed by employers and companies that are now defunct that are also operating as a going concern right now. In other words, what is the probability of recovering the funds owed? Has anybody done that assessment before we come with this amnesty? An employer could have died without settling outstanding

balances or companies have shut down.

I also would want to know, has any research been done to see whether there are minority of employers that would be responsible for a majority of the funds being owed by NIB and has the State obtained confirmation that they will be able to be repaid? And how much of these funds are owed by state enterprises? I am not going to go at length at that, but I want to know. It is not being presented here. Are there employers with the willingness but not an ability to settle their outstanding balances in cash during this period? Will these employers be offered any credit facility in the way of those offered to companies via banks as has been done in the pandemic related to loan facilities for companies for working capital support?

I heard Minister West speak about all that the Government, boasted about all that the Government did during the pandemic to assist with special loans, et cetera. Has anything changed now after the pandemic? Have all these companies mysteriously fallen into a boom? They are still struggling through this PNM pandemic, Mr. Vice-President. So we come to bring a waiver but there is no support by this Government to assist to take advantage of this waiver? These are the questions that are of most importance in my mind when I contemplate the challenges to the success of this NIB waiver.

Because I have to ask myself the question: Is this the case of too little, too late for many? Lest we forget, it was reported by various chambers of commerce that over 6,000 companies shut their doors in August as a result of this pandemic and the lockdown measures. I am hearing 4,000 having complied but we are hearing 6,000 companies have been shut down. How many of those 6,000 companies have not contributed? Do we know? These 6,000 companies that lock down, small and micro enterprise businesses and I heard another Senator, Sen. Deonarine, speak about the small and micro businesses, all who have struggled and

suffered during this—lock down measures were foisted upon businesses in an ad hoc manner and without following any science. This signifies this Government absolute and now proven and measured failure with regard to management of the COVID-19 pandemic but we are not debating that today, so I will just move on. But the failure is pronounced especially on these businesses that are required to contribute to national insurance, hopefully to come up to scratch now during this period of waiver. So it would be remiss of me to not point out that many of these companies have not since reopened, Mr. Vice-President. many have not.

And the hon. Minister in the Ministry of Finance in piloting this Bill in the Senate here today stated that there is a shrinking workforce. Well I am absolutely glad that he has confirmed that. Why is there a shrinking workforce? Companies are shutting down under the Government, Mr. Vice-President, so I agree with him. The jobless rate has skyrocketed under this Government. The last report was over 112,000 up to 2020 based on the National Insurance Board's statistics; 112,000 lost their jobs. And this is relevant to the Bill because I heard Minister Manning speak to the gap in contribution and benefits. The biggest contributor to the widening gap is the collapse of the labour force and the resulting decline in contributions in income.

Mr. Manning: Mr. Vice-President, 46(6) please. We have a shrinking workforce due to the fact that people are having less children, not for the reason that you are stating.

Mr. Vice-President: Sen. Lyder, kindly guide your discussions accordingly and move on.

Sen. D. Lyder: Yes. But I am saying that there is a shrinking workforce according to the NIB.

Mr. Manning: You are wrong.

Sen. D. Lyder: Yes, you could skew numbers if you want because we note that the formula for counting the loss in contributors to the national insurance scheme changed in 2021 coincidentally after the Government was dragged over the coals for the 2020 job loss statistics informed by the same NIB report. So yes, it is a shrinking workforce. Companies are exiting this country, thousands losing their jobs. We, as the Opposition, have stated it publicly any measure that could bring relief to the average citizen is a necessary measure at this time. The challenge we have is that the Government waited until post-pandemic to finally waking up and smell the coffee that many businesses need this waiver. This is a measure that, for some companies, that is why I say it is too little, too late right now, for the 6,000 that closed and the many more that are going to close day-by-day in this country. Some may even refer to it as administering medicine after death.

So I have pointed out that the Government must detail to the Parliament what is the potential for employers to be able to meet the window of six months to fulfil their NIB obligations. Why I say it is too little, too late for some employees is that these companies that have already closed their doors as a result of the lockdown measures instituted by this Government during the last two years. There are many companies that a waiver will not assist. The Government, if they actually cared about workers of this country, will ensure that those companies that are unable to make their payments because they have shut their doors or are on some level of life support now get the help that they need.

Again, Minister West, I refer to what Minister West stated in her contribution, that the Government boasted about assisting during the COVID pandemic with some relief through soft loans and interest reduction is what the hon. Minister stated. But again, we are still in a PNM pandemic. The pandemic may be passing but we are in a PNM pandemic. Companies still need this level of

support, therefore, it is incumbent on this Government and the hon. Minister of Finance and acting Prime Minister to extend targeted credit support to those companies that will not be in a position to service their contributions in full but can qualify for financing with some Government guarantee behind them. That might be forward-thinking. May be too much for some to think but remember that the Government guarantee is the key differentiating factor in whether a company with the right management, market opportunity and client base can qualify for a loan or not. The guarantee goes beyond collateral. It is as good as gold, Mr. Vice-President. Do you know how many banks will jump at this opportunity if it is backed by the Government? I could think of several of them. One in particular, I could think of NCB Global. They may wish to partake in this. They may sign up for this if the Government gives a guarantee loan programme to settle NIB payments especially given their growth under this administration. The Government can use the relationship with banks like NCB Global that have gotten major loans taken from the Government could use this opportunity to—

Mr. Vice-President: Sen. Lyder, Sen. Lyder.

Sen. D. Lyder: Yes, Mr. Vice-President.

Mr. Vice-President: 53(1)(b), relevance to the debate and three narrow parameters at hand. Kindly stick to it, please.

Sen. D. Lyder: So no problem, Mr. Vice-President. I mean I just felt that in order to achieve the objectives in clause 3 and clause 4 of this Bill that the Government may consider assisting these ailing companies with Government-backed financing through institutions. One in particular I just mentioned, but anyway, I will move on.

Mr. Vice-President, I have another question. What about some of those companies and employers that are owing for instance \$100,000 but are only able

financially and without upsetting their cash flow and putting them out of business, they are able to pay half the sum in this six-month period? Will the Government not also see the importance of it assisting with financing measures for those who are actively attempting to pay? Or will the Government be willing to offer an extension at least to those who would have demonstrated commitment to settle a substantial part of their outstanding obligations? I heard nothing about that because this makes the difference between a company making the effort to provide half a loaf during this six-month period versus continuing to evade the Government without a slice of bread to share amongst the current employers. And we already know how expensive bread has gotten, so—

But Mr. Vice-President, as I move on, the Minister of Finance in another place, because I did not hear anything mentioned here by the Minister in the Ministry of Finance here, but the Minister of Finance in another place is recorded as stating that he does not know how much the figure is owed to the NIB by state organizations. Can you believe that? And he went on further, when I looked at it on television, he went on further to state that this is a result of disputes over amounts owed. So I do not know what my left pocket owes my right pocket. Can you imagine that, Mr. Vice-President? How you expected to run a Government for the people if you do not even know what the left hand doing and the right hand doing?

Mr. Vice-President, the Minister of Finance stated that this was a submission from the NIB at a Public Accounts Committee earlier this year. That is what he stated. And although the Minister of Finance may feel comforted by this response from the NIB, those citizens and contributors of the NIB fund certainly cannot be satisfied with that response. The Minister could mandate the NIB to indicate how much funds are owed, including the portion that is being disputed. This would at least assist the Parliament in understanding the approximate, if not the precise

exposure to the State that the NIB is carrying on its books right now. Imagine they do not even know what the State owes.

Mr. Vice-President, I heard the Sen. Mark speak about the Minister's overarching powers once again seen in this Bill and I am not going to go down the road of Sen. Mark. I will take a different approach. You see, Mr. Vice-President, in this Bill, clauses 3 and 4 grant on to the Minister of Finance powers with regard to the waiver and to do so by order. We all heard that. So the Minister can therefore extend the period without recourse to Parliament and the defence of this by the Government was that they would not want to waste parliamentary time. That is what I heard when I looked at this debate in another place. I think, if I am not mistaken, nobody mentioned this but the Minister of Energy and Energy Industries in the other place was recorded on *Hansard* as stating and I quote:

This was "to avoid the need to utilize parliamentary time for these administrative matters."

Close quote. So I find it very curious that a Minister who has as much call as an attorney as Minister Young is would state that such a substantial change to the core function of the NIB is a mere administrative matter. That is what I find very strange. What does the NIB exist for if not to enforce payment of beneficiary contributions by employers? This is the very rock upon which the entire system of national insurance stands. Yet, granting the Minister of Finance, who is a politically-appointed individual, representing the political arm of the State, not a Permanent Secretary, not a public servant, a politician the ability to treat with this as he desires, as he sees fit and this is considered a trivial administrative matter?

6.00 p.m.

And this is considered a trivial administrative matter? One would think that the Government was referring to the possibility of the opening and closing times of the

NIB branches, or whether NIB should be opened on public holidays. That sounds more like administration. This is yet, again, another example—a multiple of examples—of this Government taking powers on to itself and bypassing the Parliament and by extension bypassing the people of Trinidad and Tobago.

Mr. Vice-President, the Minister of State in the Ministry of Finance, in piloting this Bill here today stated that this Bill will assist the NIB in closing the gap between contributions and benefits. That is what he stated. However, this will only be during this six-month period of amnesty. The Minister spoke at length about the sums collected by NIB from arrears in the past years outside of an amnesty. But the Minister fell decidedly short on giving any indication as to the expected quantum of arrears to be collected as a result of this amnesty. So we know, as the Minister stated, at the last amnesty, they would have collected \$36.8 million in outstanding NIS contributions and was bought in by some 2,310 employers. So are we to simply use that as a yardstick, without any concern for the total value owed today? If so, that is simply not good enough in my books.

The Minister of State in the Ministry of Finance and the Acting Prime Minister needs to level with the Parliament and the people of Trinidad and Tobago, as to the extent of the gap that they seek to close with this current amnesty. You come without a plan? The Minister of State in the Ministry of Finance submission on the National Insurance (Amdt.) Bill, and the attendant waiver, was strewn with half answers.

I think my colleagues on my side, on the Opposition Bench, who have spoken so far have clearly given examples of this. To me, it was an exercise in deflection today. The Minister of Finance basically, indirectly told the Parliament and this nation by extension that, “I do not know how much money is owed to the NIB overall”. “I do not know how much the State owes to NIB. I do not know

how much companies are in a position to comply with the waiver, nor will I be able to make steps to clear up this grey area.”

And you know, Mr. Vice-President, as the local saying goes: nothing from nothing leaves nothing. What are we to expect here today? This Bill has nothing in place to measure the potential success or failure of the waiver on the collection prospects of the NIB. As the old adage goes in business management: if it cannot be measured, it cannot be managed. And if you fail to plan, plan to fail. Yes. Yes. No planning, a normal thing with this Government.

This presentation of the Government in this debate on this Bill simply lacks connection to planning, lacks adherence to objectives that are smart. I know, through you Mr. Vice-President, that the Minister of Trade and Industry knows the acronym, SMART. It must be specific. It must be measurable. It must be attainable. It must be realistic, and it must be time-bound. I have heard nothing here that shows smart objectives, coming from an “unsmart”, no, non-smart Government. Yes. I think the only thing they got correct is the time bound. But even that, the Minister has reserved himself the right to extend by order.

Mr. Manning: Mr. Vice-President, 46(6). The Member apparently just discovered fire with his smart measures.

Sen. D. Lyder: What? Mr. Vice-President, that is a Standing Order?

Mr. Vice-President: If I may ask the Member to repeat the Standing Order for your clarity?

Mr. Manning: 46(6), please.

Sen. D. Lyder: What? “Yuh doh agree with smart objectives?” Mr. Vice-President.

Mr. Vice-President: Imputing improper motives is what he is coming to.

Sen. D. Lyder: To whom, Mr. Vice-President, who?

Mr. Vice-President: The smart conversation—

Sen. D. Lyder: Who in the Government am I imputing improper motives?

Mr. Vice-President: Continue. I am just clarifying the Standing Order.

Sen. D. Lyder: Okay. Thank you, Mr. Vice-President. I see you realize that—

Mr. Vice-President: Mr. Mark wanted clarification and I asked you to continue your presentation.

Sen. D. Lyder: Thank you, Mr. Vice-President. I see that your ruling shows that that Standing Order makes no sense whatsoever, because clearly I have imputed no improper motives to anyone. I spoke of this PNM Government.

Mr. Vice-President: Sen. Lyder.

Sen. D. Lyder: Yes.

Mr. Vice-President: I have made a ruling and I have taken the Standing Order from the Member and I have asked you to proceed.

Sen. D. Lyder: Okay.

Mr. Vice-President: There is no reason for you to explain my ruling or not.

Sen. D. Lyder: Yes, yes, thank you. Thank you for your wise ruling, Mr. Vice-President, and I move on, on your advice. So, it is in this vein that I say the Government is setting themselves up for an easy ride in an endeavour that requires rigor and clear management oversight.

I ask my colleagues to reflect on these submissions with a view to improve this legislation before the Parliament, as my colleague, Sen. Mark, has already indicated, that the Opposition will be bringing amendments to this Bill to assist the Government to improve on a half-baked Bill brought to this Parliament.

So, my short intervention today is a reflection of the lack of thought and vision that has gone into this Bill. This has become synonymous with the actions and performance of this Government. As such, without this Minister's ability to

answer most basic and fundamental questions here today, that myself and my colleagues and I and even those on the Independent Bench have asked, that we have all raised today, I hold little hope and expectations that this amnesty will be impactful, will maximize the outcome or be concluded successfully to the benefit of the citizens of Trinidad and Tobago. I hold little hope.

The hon. Minister of State in the Ministry of Finance mentioned that winter is close. My colleague, Sen. Mark said no, it is heat. Let me set the record straight. The winter has been biting for the past seven years under this PNM Government. And now the country is getting heated and giving this Government heat. That is what is going on here now. We are still in the winter. So, the Minister of State, the Acting Prime Minister and the Minister of Finance need to go back to the drawing board. They need to go back to the drawing board and create a more detailed plan, one that is transparent, one that involves consulting with all stakeholders. Because I heard Minister West say that in the roadmap for recovery, which I do not seem to see being implemented, but the hon. Minister stated that in that roadmap for recovery there was partnership, or supposed to be partnership and consultation between the Government, labour, and private sector.

And Sen. Mark, most ably indicated and proved that there was no consultation with labour in this. So they need to go back to the drawing board and consult; take this to a joint select committee. Mr. Vice-President, if any Minister—and I do not impute to anyone, but if any Minister was in the private sector working for me and, came to me with an objective without a plan, without smart objectives, they would be fired immediately, just as how this country will soon fire this Government. I thank you, Mr. Vice-President.

Hon. Senators: [*Desk thumping*]

Mr. Vice-President: Sen. Anthony Vieira.

Hon. Senators: [*Desk thumping*]

Sen. Anthony Vieira: Thank you, Mr. Vice-President. I really was not planning to speak on this Bill. But having heard the contributions, I feel I have to put some concerns I have on the record. My first concern, of course, is that the NIB is not a company; it is fund. And so I am very uncomfortable tampering with the NIB's fund this way.

My second concern is, I really find this law is unfair to the law-abiding. You know, there are employers who have struggled through the past few years. They have stood by their employees. They have been done right. They have made the sacrifice. And what are we telling them? You know, that you could just ignore the law and you get a "bligh"? I am uncomfortable about that. There should be no payoff for wrongdoing.

Another point that troubles me is this: why do we need legislation for this six-month period of safe harbour? If you owe the NIS money, why can you not go to the NIS, negotiate with them a settlement agreement and they will give you time to pay what you owe? And it would not be in six months. You could negotiate a year, two years, longer, as suits the circumstances of the case.

I also have very serious concerns about giving the hon. Minister, and I am not speaking about this particular Minister, I am speaking generally, about giving the Minister power to waive penalties and interest. First, as I said earlier, because we are tampering with a pension fund. And secondly, we should really know who the beneficiaries are. So, for example, I do not know if any proceedings have ever been brought against any Government agency or any Ministry. But I would be very concerned for, on the one hand, the Minister to be waiving penalties and interest for people who we do not know are getting this largesse. And on the other hand, we are also increasing the penalties today, substantially, other people getting

the big stick. To me, unless we set up some sort of criteria, some sort of transparency, there is room for mischief. And even if there is no actual mischief, there is a perception for the possibility of mischief to occur, and I am very uncomfortable about that; that a Minister can have power to waive for one, while a similarly situated employer feels the full brunt of the law with these increased penalties. It cannot be right.

I agree with Sen. Mark and with Sen. Deonarine, and I think if I were to characterize it, I think this Bill is flawed on both ends. It is flawed on the incentive end because what is the use of trying to give this incentive, if people really do not have the money and the capacity to take advantage of the incentive being offered? This 10 per cent? I mean, that is a very, very low bar. It might not even be that. So, the incentive idea may not work.

And then on the other end, we are talking about ramping up the penalties. But what is the sense of ramping up the penalties if we are not aggressively prosecuting the infringers? You know, are we going to scare them into compliance because the penalties are now bigger? It does not work like that. We really need to create a culture of compliance. And I think that has to be achieved by a mixture of both carrot and big stick. I do not think this legislation meets that objective.

We really need to dig deep into how to create the conditions to ensure voluntary compliance. And that is why I tend to support Sen. Mark's request, his suggestion for a joint select committee or some sort of colloquium. Because I think on something as fundamental as this, where we are talking about contributions, the safety net for our employees and our workforce and people have sacrificed all their years. I would like to hear from the employers. I would like to hear from the trade unions. I would like to hear from the NIB. I would like to hear from actuaries, economists, from TTARP, from the chambers.

So, I do not have much more to say. To summarize, I am uncomfortable with this legislation. I am uncomfortable about giving wrongdoers a “bligh”. And in my view, there should be no “bligh” for anyone who has taken contributions from employees under the guise of the NIS and then failed to remit it to the NIS. That sort of person is a thief. As far as I am concerned, that is white collar crime. No “bligh” should be given. And again, I will not support this legislation, unless we have some criteria to make sure that that is not going to happen.

What this law is saying is, do not pay NIS and your liabilities will be waived. That is not fair. And we are interfering. This is my real concern. We are interfering with a statutory trust; money due and payable by employers and employees are deemed to be held in trust under the parent Act. It is held in trust for the board, section 39A. It is the board’s duty to operate and manage the National Insurance System.

So under the parent Act, the Minister can approve powers and functions of the Board may exercise and function, but that is subject to affirmative resolution. And so to me this amendment at clause 3 seems to fly in the face of that. You just waive penalties and interest? No. I have to say I think we need to revisit this. I am not happy with it. I thank you.

Hon. Senators: [*Desk thumping*].

Mr. Vice-President: Sen. Reunka Sagramsingh-Sooklal.

The Minister in the Office of the Attorney General and Ministry of Legal Affairs (Sen. The Hon. Renuka Sagramsingh-Sooklal): Mr. Vice-President, I thank you for the opportunity to join in this debate. Coming at this stage in the batting order, Mr. Vice-President, my contribution in this debate is not going to be very long. But I believe it was critical to, of course, rise to the occasion, having the opportunity to speak, to, of course, again, of course, again, to jump into this

debate to try to debunk some of the misinformation and the propaganda that the Opposition in this place is known for. Mr. Vice-President, I am not surprised at all by the misconception of the Members of the Opposition. Sometimes I often think, Mr. Vice-President, that is what they do best.

You know, I want to remind this country and this honourable Senate, Mr. Vice-President, that amnesty periods in this regard, it is not an entirely new concept at all. As a matter of fact, Mr. Vice-President, the Government of 2010 to 2015 brought an amendment under Act No. 2 of 2012, a Finance Bill which sought to amend the same section 39C(1) to cater for outstanding contributions which would have become due and payable, Mr. Vice-President, until October 09, 2011 as the amnesty period was from the 10th of October, 2011.

[MADAM PRESIDENT *in the Chair*]

Now, Mr. Vice-President, in listening to the contribution of the other side, I had the benefit of pulling some *Hansard* records of the House of Representatives and for the purpose of this *Hansard*, Madam President. It was the House of Representatives debate dated 08 February, 2012, at page 471. The former Minister of Finance, Madam President, in his piloting of the Finance Act No. 2 of 2012, explained a similar amendment to section 39C(1). The *Hansard*, at page 471 of that debate, Madam President, which took place, as I said before, on the 8th February stated, the then Minister of Finance stated:

“...the NIS waiver we expect would indeed increase the revenue base of the National Insurance Board and also allow individuals to put their books in order. All outstanding contributions payable by the employer to the board must be paid before the expiry date of June 30, 2012. So there is a sunset clause. The waiver shall only be available to employers who are registered with the Board before October 10, 2011, in respect of penalty, interest and

contributions for the insured persons registered as their employees prior to the October 10, 2010. The waiver only applies to penalty and interest payments, which accrued before October 10, 2010.

So, this is another attempt to provide an incentive for those who have, for one reason or the other, not paid up their NIS contribution to do so and get their books in order.”

Taken from a *Hansard* of a 2010 Government and I need not remind this country who was in power, Madam President, at that point in time. So it begs the question, Madam President, it begs the question, if Members of the side opposite even understand the concept of a sunset clause, when this amendment that we have brought, this amendment is clear as to when the amnesty period would end.

I want to respectfully submit to this honourable Senate who stands to benefit from this amendment. Madam President, Sen. Mark, throughout his contribution, throughout the length and breadth of his contribution, would have insinuated that only a particular group stands to benefit from this amnesty. Madam President, I want to take this opportunity to indicate, as we are all aware, that this Government is an all-encompassing government and the purpose, as was already mentioned, is for the benefit of all citizens of Trinidad and Tobago to fulfill their now statutory obligations.

So, of course, for Sen. Mark to come and then promote the idea that this amendment, of course, is for a particular group or potential PNM financiers and friends and family, I think that is how they constantly put it to the population, it is absurd. Because once we have this amnesty we are going to have SMEs who are going to benefit. Once we have this amnesty, we are giving an opportunity to every single class of citizens in this country to put their house in order, and that is simply what we are here to do.

Madam President, the past is evidence that amnesty periods benefit both citizens and the government, as citizens are given an opportunity to once again be on the right side of the law, while the Government will benefit from moneys that was once due and owing to the State, so that the obligation of the State, Madam President, can be met. And mind you, when I speak of the Government benefiting, I am not speaking about Government benefiting and money hitting our pockets, you know. I am talking about the Government is able to accrue sums, of course, that could then be reinvested into other areas of development, Madam President, in this country.

So that is just one of the major things that I wanted, having looked at the *Hansard*, having seen a UNC Minister of Finance brought a similar provision in the past in which the UNC supported, and now have the gall to come here today and criticize this Government for trying to implement something that was similar.

Madam President, as I promised, I would not be long. But I want to briefly look at clause 5, proposed section 63(1) of the National Insurance Act. Now, Madam President, clause 5, proposed section 63(1) states:

“Any person who for the purpose of obtaining any benefit or other payment under this Act, whether for himself or some other person, or for any other purpose connected with this Act—

- (a) knowingly makes any false statement or false representation; or
- (b) produces or furnishes or causes or knowingly allows to be produced or furnished, any document or information...”

—and, of course, the clause goes on. My focus now would be on clause 5, paying specific attention to subsections (a) and (b).

Now, Madam President, I am of the opinion, and the Government is of the opinion that NIBTT has been continuously improving its services and operations in

meeting the needs, Madam President, of the people of Trinidad and Tobago. And the purpose of doing this, Madam President, it to add a further layer of protection to persons. When I speak about—I am talking about what we hope to achieve, Madam President, in the amendment that clause 5 now brings. Our intention in the amendment that clause 5 brings, Madam President, in my respectful submission, is also to address and bolster the National Insurance System and legislation. And thirdly, this amendment brought in clause 5, Madam President, I respectfully submit, is also to provide a critical tool to law enforcement, in relation to the National Insurance provision.

Now, in looking at this particular amendment, it is very, very important, Madam President, for me to respectfully take this Senate to section 3(1) of the Forgery Act of Trinidad and Tobago, Chap. 11:13. Now, clause 5, proposed section 63(1) of this Bill, deals with fraud and forgery of documents and the production of false information. So I believe for us to also get a greater understanding of this clause, it would also be critical for us to bear in mind the Forgery Act.

Now, Madam President, under section 3(1) of the Forgery Act, forgery is defined as:

“the making of a false document in order that it may be used as genuine...”

The section goes on to say that:

“...forgery with the intent to defraud or deceive”

And then, of course, in that particular Act, there is then section 3(2), that goes on into detail about persons and basically the criteria that the court will have to satisfy for someone to be deemed as guilty of committing this offence.

Now, Madam President, this means that pursuant to the Forgery Act, what this means is that a document is false where there is any material alteration,

whether by addition, erasure or removal. What it also means is that the whole or some material, part of it purports to be made by or on behalf of a fictitious or probably of a deceased person. That particular section of the Forgery Act also said it is made in the name of an existing person, or it is made by him or by his authority, with the intention that it should pass as having been made by some person real or fictitious other than the person who made or authorized it.

Now, let us look at—so that is what the Forgery Act speaks to, and it is that area or that piece of legislation that deals with a similar offence that is now created in this particular amendment.

What I now want to look at, having put on the record what the Forgery Act states, I want to look at the consistency, Madam President, that exists in this Bill, with the Forgery Act. Madam President, clause 5, proposed section 63(1) of the Bill:

A person who is found guilty is liable on summary conviction, and section 17(2) of the Forgery Act, states, Madam President, that:

“Where an offence against this Act is by any other Act, whether passed before or after the commencement of this Act made punishable on summary conviction, proceedings may be taken either under such other Act or under this Act.”

6.30 p.m.

The point that I want to make, Madam President, is that the Forgery Act seeks to allow a person to be held liable for acts of fraud and forgery, which is punishable by summary conviction. So therefore, the fraudsters and smart men can be dealt with under that forgery. What we have done in this amendment is very similar to what we have already—what is currently present or how fraud is dealt with under the Forgery Act.

So, the reason why, Madam President, I just wanted to bring to the attention of this honourable Senate, the Forgery Act is so that we can understand that the amendments that we have brought today is also in alignment with other existing law as it relates to the treatment of fraud. And by applying, you know, what we have done or by making the amendments which we have made to this particular Act, by virtue of the Bill that we are debating, is consistent with the Forgery Act. So, we have not departed significantly. We have not departed from how this offence is treated in other pieces of law.

Now, it is critical—I know, Sen. Vieira—and that has always been my concern. I know, Sen. Vieira—and I do not want to misquote the hon. Senator but I believe he asked a question about or he made a statement relative to the importance of enforcing the law. Right? Yes, we have increased penalties and yes, critical, is how is this going to be enforced. Now, when I was looking at this Bill and looking at the Act in its entirety, of course, the point of enforcement came to me and I reminded myself, Madam President, of the department responsible for fraud under the NIBTT.

Madam President, it would be remiss of me if I do not make mention, in speaking of the enforcement of whatever amendments we have brought to this Bill, it would be remiss of me if I do not mention the Investigations and Controls department within NIBTT. And it is this department, Madam President, which is responsible for investigating and reporting of fraudulent activities within the National Insurance Board. So, in essence, the amendment—my respectful submission is that what we have done is simply given greater teeth to this investigation body who, of course—when I say “greater teeth”, of course this body, sorry, is going to be responsible, of course, for using the law that is now in existence for accruing all of the evidence and all of the information that is

necessary to ensure that there is successful enforcement of the new provisions or the amendments that we have brought to the law.

Now, the main objective—so, like the hon. Senator being concerned about enforcement, it took me again, as I said before, to looking in detail at this Investigations and Controls department, and even within the Act it is clear what their roles and their main objectives and their functions are. So, this Investigations and Controls department, Madam President—just for the record, the main objective of this department are: to execute the day-to-day operational activities in support of the Fraud Control Framework, one; two, to support the organizational efforts to ensure compliance to fraud and all related policies; and three, implement preventative, detective and response procedures that will manage fraud.

So, I am not—so, by looking—to answer my own concerns when I ask the question, okay, how is this—how are we—what mechanisms are in place to ensure that all of these amendments, we are able to enforce it and really catch those fraudsters, I want to believe—my respectful submission is that we have within NIBTT, Madam President, the Investigations and Controls department, and I have already listed what are their core and critical functions. In essence, what this department will be doing is serving a function by assisting in the collection of evidence that may exist within NIBTT that, of course, can assist in the enforcement and, of course, bringing to justice persons who are guilty of offences committed under this Act.

Madam President, by carrying out these objectives, the objectives that I respectfully submitted above, the Investigations and Controls department of NIB has a mandate; has a mandate, and I want to repeat that, has a mandate to collaborate with the Trinidad and Tobago Police Service, the Board of Inland Revenue, and Office of the Attorney General and the Ministry of Legal Affairs as

necessary to report and/or to provide support in the prosecution of fraud matters encountered during their day-to-day operations, thereby embodying an ethical culture with zero tolerance to fraud.

And I was very, very much interested—I mean, not being a mathematician and not being very much into the finance world—I should not say a mathematician, but not being very much in tune with the finance world, I really had to find myself reading to fully understand how the NIBTT operated. And as I just—and I have to reiterate that I was pleased as a citizen, not as a Minister of government, not as a Member of the Government, but just as a citizen of Trinidad and Tobago to know that this Investigations and Controls department that exists within the NIBTT is responsible and will be responsible for assisting all of the key players, whether it is the Office of the Attorney General and Ministry of Legal Affairs; whether it is the TTPS, the Trinidad and Tobago Police Service, and more so, the Board of Inland Revenue, this body is responsible for working with these entities in order for us to treat with the issue of fraud that may exist within the National Insurance Board, NIB.

Now, Madam President, to that end, with this amendment, I want to reiterate that we—that the Government—as a government we are remaining committed to taking a zero-tolerance approach to fraud. With this being said, we are placing stiffer penalties, Madam President, for acts of false information where persons try to obtain benefits or other payments under this Act, whether for himself or for some other person. Madam President, we are therefore making these amendments and I want to say to the people of Trinidad and Tobago, we are making these amendments for the benefit of all citizens of Trinidad and Tobago, for all of our people. And we are taking a hands on approach and a no-nonsense approach,

Madam President, in trying to deal with fraud as it exists and instances of fraud as they come to the fore.

So, this is really the crux of my contribution—my very, very short contribution to this debate, Madam President, where I just wanted to remind the public, who like the hon. Sen. Vieira and even like myself who may have been concerned about the enforcement processes, I wish to say that within the ambit of the Act itself, there is this investigative body that is now charged and has the mandate to work with some of the key players who are, of course, responsible for the investigation and more so, the prosecution of fraud as it exists.

Madam President, with those few words, I thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Acting Prime Minister and Minister of Finance.

Hon. Senators: [*Desk thumping*]

The Acting Prime Minister and Minister of Finance (Hon. Colm Imbert):

Thank you very much, Madam President, I will be quite brief. I am glad I came in at the time I came in to hear Sen. Vieira. I was informed that Sen. Deonarine had a suggestion that perhaps the amnesty could be for a longer period because of the difficulties some persons, who are currently not in compliance or not within the system, may have in complying within a six-month period. And that is precisely the purpose of the provision that allows the Minister to extend the period of the amnesty. Because in all of these amnesties, it is not clear what the response will be. In the amnesties that this Government has implemented, that I have implemented, it is a feature of these amnesty that you always find a huge crowd in the last week of the amnesty; always. And I guess that is a societal thing. You always get people trying their best to comply. I have found that with tax amnesties in particular, people genuinely want to comply for one reason or another, business problems,

difficulties, problems with paperwork, discipline in terms of their accounts and so on. Persons have difficulty complying with amnesties—easily complying. And there are many persons who request an extension, genuinely, and they do not really need more than a couple of weeks, their accountants are finalizing their accounts, auditing their accounts and so on.

So, the purpose for an extension is very practical but you never know how long it should be and therefore, that is why we have the provision for the Minister, by Order, to extend the amnesty. And I can assure you that if it is necessary—if it becomes necessary—because I am going to come to a point that Sen. Vieira made, put it in context, that if it becomes necessary to have a fairly lengthy extension, then a decision will be made along those lines. But you would never know until you get to that point.

One of the features of this Bill is that it not only provides an amnesty for existing companies that are already within the national insurance system, it also allows for persons who are outside of the system, but operating in breach of the law, to enter the system and become compliant. So, it is persons who, by rights, should be registered with the national insurance system, but for one reason or another—many of them are not good reasons—they are not registered. So, an innovation in this legislation, as compared to the previous one, is that it allows persons who are not currently registered with NIS/NIB to register. And I would think that those people might fall into the category, by and large, that Sen. Deonarine has spoken about, that will have difficulty in complying within the six months.

So, that is why we have created this flexibility and that is a feature of amnesties, whether they are tax amnesties or other amnesties, that is a feature of legislation where the Minister is given the authority to extend. And what the

Minister is actually doing is extending a benefit. And let me just give some history, because I noticed Sen. Mark went down the same rabbit hole that the hon. Senator is always going down. If Sen. Mark had his way, everything would be by affirmative resolution. It does not matter if you are changing a full stop.

So, let me go now into the history of the concept of a ministerial order. When I look, in particular, at the period in which Sen. Mark was in government or the period in which Sen. Mark's party was in government, I look to Act No. 11, of 2010, the Interception of Communications Act, that was passed by a special majority. So, this was an Act that was felt to infringe the rights of citizens—the constitutional rights of citizens, so it was passed by special majority. And in that Act, the Minister, the relevant Minister, has the power to do things by Order, even though the Minister will be doing that without a special majority.

Then you have a very interesting one, the Purchase of Certain Rights and Validation Act, that is Act No. 17 of 2011, the CLICO Act. I do not know if you all remember that, where you had Short-Term Investment Products, I think they call them STIPs. They were converting the premiums, the policies into these STIPs. Again, that Act involved billions of dollars. In fact, I think the amount was \$10 billion or \$11 billion, and again, the Minister was given the power in that legislation in 2011, under the government of which Sen. Mark was affiliated with, the right to make extensions and to make orders without affirmative resolution.

So, it appears that what is good for the goose is not good for the gander. Act No. 5 of 2012, the Administration of Justice, DNA, Act, again passed with a special majority, regulating the use of DNA evidence with respect to criminal offences. Again, the relevant Minister is given the power to do certain things by Order without affirmative resolution.

Then you have Act No. 11 of 2012, Administration of Justice (Electronic Monitoring), again, passed by a special majority and again, makes provision for ministerial orders without affirmative resolution, and there is a reason for all of that. The Parliament felt that it was administratively unnecessary to come for— a Minister to come to Parliament and debate in both Houses what is essentially an administrative action. And I want to correct a bit of misinformation I heard from Sen. Mark, where he said that this Bill will give the Minister the power to waive. It does not. It gives the Minister the power to extend an amnesty which the Parliament will have already agreed to. So, the Parliament will already have agreed to the amnesty and this simply gives the Minister the power to extend the deadline date for the amnesty. So that it is quite ridiculous for an argument to be made that this Bill, which has been bestowing a benefit on the public through an amnesty of interest and penalties, is egregious or ridiculous when a previous government did exactly the same thing, quite correctly, with a number of laws that were inconsistent with the Constitution and had a far more profound effect on Trinidad and Tobago.

But let me give a real life example to show you what we on this side are subjected to on every occasion that I have to come into this honourable House to deal with misinformation that is put into the record by Sen. Mark. Let me give a real life pertinent example. In 2010, the then government implemented a tax amnesty and by law, by section 16(h) of the 2010 Finance Act, the amnesty period, commenced on September 08, 2010 and ended on May 31, 2011. After May 31, 2011, the law indicated that the previous paradigm would apply and the waiver would disappear. The then Minister of Finance, not a PNM Minister, the then Minister of Finance, visited some government offices and one of the offices in particular that the then Minister of Finance, UNC Minister, visited was the Inland

Revenue Division. And after visiting the staff at the offices of the Inland Revenue Division to thank them for the work they had done during the amnesty period, the then Minister of Finance, not a PNM Minister, decided, based on the feedback that he got from the staff in the Inland Revenue Division, that he would extend the amnesty for a month. I have the press release right here. Look at it, it is still on the Ministry of Finance's website; still on the website:

“To all individuals and companies, who have not yet filed their returns of income for any year, up to 2009:

- (i) all interest...will be waived if taxes are paid during the period 8th September to 31st May 2011.

And then goes on to say, this is now:

“...extended to June 30th 2011”.

So, the Minister of Finance, in the party of which Sen. Mark was associated with, extended the amnesty in 2011, not by coming to Parliament, not by negative resolution, he just did it. So, this is the problem that I have with all of this. Every time I come here, I have to hear this misinformation from Sen. Mark. And I want to repeat all this Minister will be doing is extending an amnesty already agreed to by the Parliament if the Parliament so decides.

Hon. Senators: [*Desk thumping*]

Hon. C. Imbert: Now, let me come to a point made by Sen. Vieira. I am reading from an article called “Tax Indulgences: The Scope and Effect of Tax Amnesty”. And this is a document published by the United States Internal Revenue Service in 1992, September 11, 1992, and it makes these points—it is very interesting:

“From a societal perspective...”—an amnesty, a—“tax amnesty”—in this particular case—“has three primary benefits and...”—“one disadvantage...”—at least one.

“One benefit is that an amnesty allows individuals who violated the tax laws, and continue to evade them”—and in this case it would be the national insurance laws—“because of a fear of being penalized for...noncompliance, to become law-abiding...”—citizens—“again.”

So, that is benefit number one. It allows persons who have evaded paying their fees and charges and their taxes, and continue to evade them because they are afraid that if they own up, if they walk into the National Insurance Board, for example, in this case and say, “Look, I want to confess, I have not been paying my national insurance for the last year or so,” that they will be prosecuted. So, it allows—that is benefit number one. So, it allows citizens who have breached the laws to comply without fear of prosecution.

The second benefit, which is one of the principal motivations for this particular NIS amnesty:

It—“...allows the...authority to collect some back...”—payments—“that it will presumably be unable otherwise to collect.”

Because let us be practical, in many cases, if there is not an amnesty, the payments will not be collected. People will continue to evade. Some of them will be caught, some of them will be prosecuted but quite a few of them will not.

The third measure, and this is very interesting and important and relevant to this Bill, is that:

“...by coupling the amnesty with reform or new compliance measures, the amnesty may encourage greater future compliance.”

What are we doing here? In this particular piece of legislation, Madam President, we are increasing the fines and the penalties. So that is a significant reform. Because if you looked at what the penalty was before, it was ridiculous, \$2,000. So, it is no wonder—and, I mean, I am surprised over the years that a previous

administration has not dealt with this. Yes, Sen. Seepersad? “Oh”, you wanted to say something? “Oh”, sorry. It is no wonder over the years that if the fine is only \$2,000, that is why—it reminds me of the commission of enquiry fine, that the fine, I do not know if it still applies, for not attending a commission of enquiry to give evidence if you have been subpoenaed is also \$2,000. It used to be. I do not know if that has been changed. And therefore, you will find in those situations as well that there are quite a few people who just do not show up. You know, they are subpoenaed to appear in a commission of enquiry and they do not show up, because they quite willing to pay the fine of \$2,000.

So, by coupling the amnesty, with a reform, which is what we are doing, increasing the penalty to a reasonable amount, 50,000—and, of course, that is up to 50,000, so it depends on the severity of the offence—and also increasing the custodial sentence, you are reforming the system. But the other reform we are doing, and this is a unique feature of this legislation, is we allowing persons who are outside of the system—is not that they registered and they fell behind in their payments for some reason. These are people completely outside who should not be inside, and know that they should be inside, but just like the first set, are afraid of coming in and registering because it may be discovered that they have been operating businesses in breach of the Act and not being contributions on behalf of their employees. So, it allows that category of persons to enter the system without being penalized. So, those are the three advantages. And the disadvantage—*[Laughter]*—very interesting. It is as if Sen. Vieira wrote this. The disadvantage is that:

“...an amnesty may annoy honest taxpayers.”

I found the words interesting

“Some may conclude...it was foolish to comply with the...law in the first...”—place.

Others may be—“...less inclined to comply in the future. Others make go further and choose noncompliance, planning to avail themselves of a future amnesty.”

So, there is no gainsaying these truths. An amnesty is always a difficult decision to make. It is always on the margin. If you continue to have amnesties, people may continue not to comply. But I think these advantages are very important and all over the world various governments use amnesties. Yes, Sen. Vieira?

Sen. Vieira: Thank you, Minister. No, I totally get it with amnesties and I have supported amnesties in the past. But my concerns really are, this money is a trust fund, it is a statutory trust and whether the Minister, as opposed to the NIB, who are the persons for whom all moneys collected are held in trust should really have any waiver or intermeddling with that, that is number one. And even if we say, “Okay, let us give the Minister that power,” there must be in my view, transparency and criteria. Because we do not want it to feel to look as though the Minister has given a “blich” to friends and family and, on the other hand, other people get the full brunt of the law. I am not going to say this is going to happen but we should have—we should satisfy ourselves that we have built in those protections.

Hon. C. Imbert: Well, this is why the penalties are being increased. That is an answer to that, Madam President, through you. And, I mean, this amnesty applies to everybody, so there is no “blich” to anybody per se. I mean, it is just like a routine tax amnesty, an income tax amnesty, value added tax amnesty. There is no personalization of the amnesty, there is no indication that any particular group or

individual is being singled out or favoured in an amnesty. You could apply that argument to any amnesty. You know, any tax amnesty applied in any country by any government, you could say, is designed to favour a particular group.

Sen. Vieira: Is the waiver—[*Inaudible*]

Hon. C. Imbert: Yes. So, any amnesty of penalties and interest on payments, whether they are tax payments or, in this case, insurance payments, that argument could be mounted, Senator—Madam President, through you—that argument could be mounted on any amnesty. Because the amnesty does not distinguish, it does not say that, “This is an amnesty for John and it is designed for Mary,” it is simply an amnesty across the board. I do not think you can legislate that. I think what you have to do instead is to be very, very careful going forward and this is why the penalties have been increased in this substantial manner. So that I do not think there is any measure you can put in place to deal with what Sen. Vieira has just raised, Madam President.

So, I simply wanted to say and I want to also make the point, Madam President, that it is the Minister who has to come to Parliament to amend the legislation. As a Member of the legislature and the Minister named in the Act, it is the Minister’s responsibility to make amendments to the Act. The National Insurance Board is not a creature of this Parliament. It is not a creature of the Constitution. It has no lawmaking power. So like, as is the case with all of these matters, even going outside of finance matters, even going into national security matters, on many occasions, even though you might be dealing with a national security agency, police, immigration, whatever, it is the Minister who is accountable to Parliament and it is only the Minister that can bring legislation to Parliament to create penalties and benefits.

7.00 p.m.

So, I do not agree, Madam President, with that concept that the National Insurance Board should, somehow be clothed with the authority to create an amnesty or not, as the case may be, and I would give example. When I was first made Minister of Finance, one of the first things I did was increase the contribution rates. Now, we could take the arguments of Sen. Vieira to that extent, and say the National Insurance Board should be given the authority to increase contribution rates, should be given the authority to increase the retirement age. These are matters of policy and, with respect that is not a matter for an entity that has no constitutional presence, has no constitutional authority, has no constitutional form and has no responsibility to the Parliament. Ministers are responsible and accountable to the Parliament.

So, I simply wanted to come here today, Madam President, and point out that, once again, Sen. Mark has led us down the garden path, pretending that the idea of a Minister extending an amnesty, is something that is abhorrent. *[Interruption]* Madam President, I do not know why, Sen. Mark, is doing that.

Hon. Senator: *[Crosstalk]*

Hon. C. Imbert: I am speaking to you, Madam President. I do not know why he is shouting at me like that. Is it because I have revealed that for yet another time, he has misled the country and the Parliament?

Hon. Senators: *[Desk thumping]*

Hon. C. Imbert: Is it because for yet, another time, I have revealed that a Minister associated with his party, has done exactly what we are seeking to do in this legislation? Maybe. So, Madam President, I thought it was necessary to come and reveal the truth that the UNC did this without any qualms whatsoever. It was right for them then, in 2011, it cannot be wrong now. And I hope I have answered some of the other points in terms of—

Sen. Mark: [*Inaudible*]

Hon. C. Imbert: Madam President, I am not speaking to Sen. Mark, I am speaking to you. I do not know why he keeps shouting at me like that. So, I hope I have answered the other points, such as the points made by Sen. Deonarine. I am afraid I was not present for Sen. Seepersad's contribution, but I understand she made a number of recommendations, and also I hope I have been able, in some way, to address some of the concerns and the points raised by Sen. Vieira. I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Sen. Marsha Walker: Thank you, Madam President, for the opportunity to contribute to this very important Bill. Before I get into my contribution and speak about my concerns with the Bill, permit me, Madam President, to just respond to the Minister of Finance, very quickly, the Acting Prime Minister, sorry. One, in 2011, you, based on your own admission just now, these Bills were three-fifth majority. Is it a habit of the PNM to support legislation inside the Parliament and then when it is convenient say, well, you know, you did it too? We are here and, obviously, the Independent Senators are also in disagreement with this Bill. This is not a situation where—[*Crosstalk*] Sen. Vieira said he was not supporting. Whether it is a no or what, he said what he was not supporting.

Let us go on now to Sen. Vieira. Sen. Vieira asked, specifically, about clause 5—actually no. He asked about clause 3, and I quote.

“The Minister may, by Order provide for the waiver of penalties or interest due and payable under this section.”

The Acting Prime Minister, conveniently came and spoke about clause 5, which says: “The Minister may, by Order, prescribe a later date for the payment of contributions under subsection (1).”

There are two clauses in this Bill that give power to the Minister. And what is going on the other side, they are continuously, conveniently, referring only to clause 5 and saying: “Hey, well, you know, it is normal. People always extend amnesties, governments extend amnesties”, when we are raising an issue specifically to clause 3, section 39B(2). Let me repeat it for the benefit of the listening public:

“The Minister may, by Order provide for the waiver of penalties or interest due and payable under this section.”

Is the Minister saying that this has something to do with extensions? Because it certainly sounds that this allows the Minister, at any point in time, to start a whole new amnesty. It certainly sounds like the Minister can go specifically to one company and offer a waiver, and he does not need parliamentary oversight to do this. This is the clause that we are asking about, not an extension.

Hon. Senators: [*Desk thumping*]

Sen. M. Walker: Now, that I have dealt with the Acting Prime Minister, let me deal with the Minister in the Office of the Attorney General and Ministry of Legal Affairs.

Hon. Senators: [*Laughter*]

Sen. M. Walker: It is ironic that she quoted, Wednesday, February 08, 2012’s *Hansard* and she said, I quote from—

Madam President: Members, please, I know a lot of you all are having fun, I am happy for you. But can I please hear the Senator as she makes her contribution and can you all be a little quieter?

Sen. M. Walker: Thank you, Madam President. The Minister in the Office of the Attorney General and Ministry of Legal Affairs came hot and sweaty to talk about page 471. So, I am going to quote, page 485, of that same *Hansard* Wednesday,

February 08, 2012. I quote, Madam President:

“So we are still talking about waivers for people who do not comply. It is either we have a culture of one kind or we have a culture of another kind. We cannot talk about increased penalties on documents; people are going to sit there and wait because they know waivers and amnesties will come.”

Permit me, Madam President, to repeat that line, quoted from, page 485 of the same *Hansard* page 471, quoted from.

“We cannot talk about increased penalties on documents; people are going to sit there and wait because they know waivers and amnesties will come. That is what has been happening in the recent past.”

I wonder, if the hon. Minister stopped at page 471, because had she read on to page 485, she would realize that these words were uttered by her very leader, the hon. Keith Christopher Rowley.

Hon. Senators: [*Desk thumping*]

Sen. M. Walker: The hon. Keith Christopher Rowley, in 2012, in his typical fashion, opposed any talk of amnesty. So, I wonder if the Minister in the Office of the Attorney General and Ministry of Legal Affairs, and the Minister in the Ministry of Finance are at odds with their own leader because, again, we can see using *Hansard* records, that their leader was opposed to waivers.

Hon. Senators: [*Desk thumping*]

Sen. M. Walker: So, one talking about winter has come, but the other one saying: “No, no, no, no, yuh doh give amnesty, yuh doh give waivers, that is not the culture.” I think somebody needs to get their house in order. So, now that I have dealt with her, we will move on, Madam President.

Madam President: Sen. Walker, when one is making a reference to a Member of

this Chamber—

Sen. M. Walker: My apologies.

Madam President:—one does so with respect. So you are referring to the hon. Minister. Okay?

Sen. M. Walker: My apologies, Madam President. Madam President, the Minister spoke—well the Minister in the Ministry of Finance, spoke about closing the gap between contributions received and benefits paid out. In typical PNM fashion, the Government has sought to blame the citizens. The Minister passed all blame on our ageing population. But, Madam President, I would like to argue that the inefficiency to collect arrears is really where the blame ought to start.

Madam President, the Minister spoke about a 2012 amnesty and indicated that some \$36 million would have collected during that amnesty. According to NIBTT Report 2021, just over \$424 million are in arrears. Madam President, in February of this year—let me make sure I am quoting correctly, because misinformation is not a thing we do—at a Public Accounts Committee hearing in February 2022, a question was posed to the Executive Director of the NIB as to how much is owed to the Government. The Executive Director could not answer. So, in essence, the NIB said to that Public Accounts Committee that we do not know how much the Government owes, the Government being the single largest employer. So it is fair to assume that they probably owe a vast majority. This is the information that is important, because the hon. Minister, the Minister in the Office of the Attorney General and Ministry of Legal Affairs, stressed that this Government benefits all, all, all. She stressed that this was to benefit all citizens. Yet, if we were to dig, will it be our very own Government that stands to benefit the most from this amnesty? And so, the Government has a duty to tell this House, how much money they owe and how much they will save? Because to be honest, if the Government paid up

their own arrears maybe we will see that that gap of which they speak, will be closed.

Hon. Senators: [*Desk thumping*]

Sen. M. Walker: The hon. Sen. West said, there is clearly money out there and the relevant agencies are not even aware. I found that statement to be very worrisome. Once again, this Government does not seem to know what is going on. How can you expect to close the gap if you do not know what moneys are out there? So I have to join with Sen. Vieira when he says, this is not the way. If a gap has to be closed, we do not need to come to Parliament to do it. What we need to do, is to conduct more audits.

I was watching the Acting Prime Minister in the other place on television, and he spoke about some 17,000 audits that were conducted between 2019, 2020 and 2021, and he said in that little activity, the NIB was able to collect more than \$1.3 billion in arrears. He did not need to come to Parliament for that. Madam President, \$1.3 billion, to me, sounds like a really good place to close the gap and that was done through measures that are already here. You go, you do audits and you collect the money.

Let us go into this issue of COVID and the Government cares and the Government is aware. I want to use the words of hon. Minister Manning when he said—what are his words?—they are a Government that is aware of challenges. If you were truly aware of challenges, then you would understand, Madam President, right now is not the time. Small—and I want to use a new term, you will make sure and give me credit—nano enterprise, because when you look at the definition of an employer, they just need to employ one person. So that means the person who is selling pholourie and has somebody cashing, that is smaller than micro. These are the “all” that we speak about. And if you think that these types of businesses can

come up to scratch with this amnesty, at this time, I am sorry, but you are obviously not aware of the challenges being faced right now. Businesses are now catching their breath. They are trying with everything that they have. They are trying.

I would suggest that if this amnesty, at all, were to take place, maybe take place in another six months when, you know—let us judge the economy. Like we have supply chain issues. We are seeing the cost of goods increasing. You know, there are a lot of international factors. There are a lot of different things that are going on right now. So, yes, we may be opening up, but we are still at a stage where these businesses are struggling. They are trying. And the amnesty does not say, well, here is what? You see if you did not pay for the last two years that we were in COVID, just scrap the whole thing. These businesses still need to come and bring their actual payments, you know, that part of it. They still need to come and bring that to be able to benefit from the waiver of penalties and interest. Madam President, I am suggesting that, I mean, yes, that is great, but it is not good enough, right now.

If a Government was truly on the ground, if they were truly aware of the challenges of the—and I am going to quote the Acting Prime Minister from what I heard on television as well—the little people, if they were truly aware of the challenges they would understand that even to bring their payments up-to-date would be a mammoth task, at this very point in time.

So, I have to agree with Sen. Deonarine with her suggestion of incremental payments. So either we defer the waiver on the whole, the amnesty and we say, look, we are going to bring it at the beginning of next year, get your house together whatnot and whatnot or we sit and we treat with this on an individual basis, and we offer some of these businesses who we established are not just, you know, they are

not just delinquent for delinquent sake. They are genuine. We sit with them and we offer them some sort of payment plan. So, maybe instead of them coming and bringing their payments up-to-date, they can at least bring their file up-to-date. They can come, they can say: “Look, this is what my file looks like. This is what I should pay, but as at right now, look what my books look like. Can I have some time?” Because then we will find that instead of the 10 per cent, maybe it would be 50, 60 per cent. So, you are looking at, okay, well instead of \$30million right away, we may get \$10 million at the end of the period, but there will be \$10 million every single month for the next five years or whatnot, you know, and there would have been an overall increase.

So, I would like those on the other side to really genuinely consider the challenges of that nano enterprise and say, let us waiver even that payment—well I do not want to use the word waiver. Sorry, my apologies—but bring the file, let us work something out. We need more of a relationship approach than this punitive way of, you know, well, we are just going to raise the fine. And so I am going to get to that. I want to get to that now actually.

Section 33(1), where we are now saying, okay, we want to raise the fine from \$2,000 to \$50,000. Madam President, in Trinidad and Tobago, the hangman is still a thing and as at yesterday, we were at 260 murders. So, it stands to reason that we can raise it from 2,000 to 50,000 to \$50 million if criminals in this country do not believe that we have the political will to enforce the law or to convict, then raising the fines will do very little. And the Minister used the words, “it would be a strong deterrent”. There is no stronger deterrent than the hangman and it is not deterring anybody from murdering people at a rate. So what \$50,000 do if there is no confidence that the Government has the will to prosecute, to enforce the law, to convict. I leave that there.

Clause 6, section 64(3), the Minister is asking for more time. For the purpose of the viewing audience, I am going to read it.

“Section 64(3) is amended by deleting the words “within twelve months”—

Madam President: Sen. Walker, I have taken the view that there is no need to read the entire clause.

Sen. M. Walker: Sure, not a problem. Not a problem, Madam President. So I am speaking on section 64(3) where the Minister wants to move from three months to three years. Madam President, we have cases before the courts for the last 22 years and they have to start over, and we have nothing coming out of it and all that it is doing is costing the taxpayers billions of dollars in legal fees. If we cannot convict in 22 years, then how we are going to convict in three years?

How did the Minister decide well, three months is not good enough, we want three years? How did they come up with that? Madam President, if we were really serious about closing this gap then we will be asking for less time. We would not be asking for more time. We would put the resources in the hands of those who need it, and we will say: “Go and get our money, go get it.” Aggressively pursue our accounts receivables.

Madam President, that carries me now to a statement that was said with regard to, you know, the genius clause that they have included that makes this waiver, this amnesty, different to the 2012 amnesty whereby they are encouraging people to register. The Acting Prime Minister in the other place as I said, I was viewing his contribution on television and he raised the issue that NIB had concerns that this particular initiative would open up opportunity for fraud. Even today when the hon. Minister in the Ministry of Finance read the Bill and made his presentation, he said that the NIB would need to be vigilant in dealing with any

unscrupulous and fraudulent activity during the registration process.

Madam President, what I heard from this, what I took from this, we are creating yet another scenario where the NIB will have to work on finding fraud. You know, they will have to be all eyes—all hands on deck sort of approach. If it is that we are barely able to collect what is outstanding now—I mean the 2017 report showed that some 16 per cent of persons are not registered which is why they have included this clause. So some 4,000 businesses are delinquent in just registering. We have not been able—and that figure came from a 2017 report, 2018, 2019, 2020, 2021 and 2022. So that is five years. In five years, we have not been able to use the tools available and there are tools available.

Sen. Vieira spoke about one of the major tools available with this particular fund, is the fact that people can be personally be targeted, their land, their assets, et cetera. They are not to escape that business—what is that word? You know like a bubble. That is not the word. Sen. Vieira help me—corporate veil. And so, he knows what I am speaking about, because he spoke about it and he questioned why were we not using that? That was one of the greatest tools that we had. So, if in the last five years, we have not been able to get these 4,000 businesses to even register, how do we propose to be vigilant in a six month period? We had five years to have these 4,000 businesses come one at a time, deal with them, make sure investigate, do everything, now we are asking for the NIB to monitor them strictly, vigorously, vigilantly when we are expecting them to all come at once in a six-month period. I just do not see it, Madam President as making any sense.

Mr. President, I want to make sure that I do not repeat, because I know that a lot was raised before I came. I do support the call for a special joint select committee. I do support the call for the publication of the list of persons who benefit and, of course, I spoke about it. Is the Government going to benefit? How

much? Is the Government our number one delinquent payer? And, yes, will this benefit the hands of a few rather than the all, all, all? If someone is getting a benefit from the State—and I understand that people have rights to privacy, but once someone breaks the law, once someone is going to benefit after breaking the law, I think that right to privacy can be waived. Just like the penalties and the interest are going to be waived, I think their right to privacy can be waived.

The Government, the citizens of Trinidad and Tobago have a right to know who are being delinquent, because that is taking away money from us. That is what it is, and we need to know it. So, I do support that call that the list must be made public. Madam President, I believe that it is for me—everything else would be repetition and I would hate to do that. Thank you very much, Madam President.

Hon. Senators: [*Desk thumping*]

7.30 p.m.

Madam President: Minister of Tourism, Culture and the Arts.

Hon. Senators: [*Desk thumping*]

The Minister of Tourism, Culture and the Arts (Sen. The Hon. Randall Mitchell): Thank you very much, Madam President. Thank you. I certainly would not be long, Madam President, but I can tell you, the hon. Member must now recognize that it is much easier to sit before a microphone on *Douglas Politics* than to come to this honourable Senate—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—understand legislation and understand and be able to put forward logical argument. Madam President, I want to thank the acting Prime Minister and the Minister of Finance for coming to this Chamber, and all my colleagues on this bench and pouring cold water on all of the arguments of the Opposition.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: Madam President, Sen. Mark promised to bring the heat but that heat was incapable of melting the fridity of illogical argument here today, Madam President.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: And, Madam President, I am very surprised about Sen. Mark and Sen. Lyder especially, because Sen. Lyder is an employer himself. Sen. Mark puts himself out as a man of the people; he represents the man of the ground—man on the ground, he is a man of the people. His arguments today lacked compassion—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—lacked the love, lacked the care for the people of Trinidad and Tobago, including the employers and the employees.

Madam President, let me touch on Sen. Walker. Sen. Walker is new to these precincts, but I would tell Sen. Walker, through you, Madam President, the hon. Senator cannot speak for the Independents. In fact, sometimes I do not think the hon. Senator could even represent the views of her own bench. Madam President, I would touch on clause 3. The hon. Senator made heavy weather about clause 3 as though we are hiding something. Madam President, clause 3 is not unknown to our jurisprudence. In the Value Added Tax Act, Madam President, the Minister with responsibility for Finance has the ability to allow for the waiver of penalties and interest. Also, in the Corporation Tax Act, the Minister with responsibility for Finance has the ability to waive penalties and interest. And, Madam President, we have done that in the past and we have done that in the past with the support of the Opposition, so I am not sure what their objection is here today.

The hon. Senator quoted the *Hansard* and quoted the hon. Prime Minister, as

he then was Leader of the Opposition, about the objection to waivers and amnesty, et cetera. But, Madam President, in 2011 when the then Minister of Finance, under the People's Partnership Government, came to the House through the Finance Bill to give a waiver of penalties and interest under the National Insurance Act, there was no underlying policy. The Minister simply said:

“...there are a number of individuals...”

—and I am quoting from the *Hansard* here, page 471, Wednesday, February 08, 2012:

“...there are a number of individuals who have stopped paying the national insurance contribution. The information we have is that as of June 30, 2011 some 2,000 employees had not paid contributions owed over the last four years.”

End of story. No policy underpinning; simply, we come, we give people “ah bligh” and that, Madam President, I would respectfully submit, is rewarding wrongdoing. That is totally dissimilar to what we are doing here today because our policy—underpinning our policy is that both employers and employees had gone through incredible hardship over the last two years through the pandemic, and I am listening to Members opposite and it seems as though that totally escapes everyone.

Madam President, we all are beneficiaries inside of here. We have been paid our salaries throughout the pandemic. We have made our contributions. Contributions have been made on our behalf, but we have to understand that not everyone was in a fortunate situation like we were. Persons were furloughed; industries, the hospitality industry, bars, restaurants, the entertainment industry, the clerk in the store selling clothing, selling shoes, they were all closed for a number of months, and what was supposed to happen? I am a business owner, not even I

knew what was supposed to happen. You go by the NIB to make a payment, the NIB is closed. They say, “Okay, puh it in ah box there.” Do you put cheque or do you put cash? You simply did not know how to make your payments or what quantum to make your payments. This is a timely measure and it is a compassionate measure and I pay tribute to the Minister of Finance for bringing this measure—

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell:—to bring relief to the people of Trinidad and Tobago.

Madam President, there is constant speculation about Government owing arrears and it is unfortunate. You come into this House, you cannot rely upon conjecture and just speculation. Where is that written about the Government owing arrears? You cannot just make those statements and I refute it unless you prove it. Madam President, the hon. Member opposite and hon. Members on the Opposition Bench keep talking about the deficit, the gap between contribution income and expenditure, and everybody on the Opposition side is very, very much concerned about this gap. But where was the concerned in the gap in 2014 when the Apsara property was bought for \$37 million when it was valued at \$16 million?

Hon. Senators: [*Desk thumping*]

Sen. The Hon. R. Mitchell: Where was the concern then? Nobody had concern about the value of the fund and the ability of the fund to earn interest income to support the gap. And to Sen. Lyder, Sen. Lyder, through you, Madam President, the labour force relates to able-bodied persons under the age of 60 who are able to work. Where the labour force has contracted, as is indicated in National Insurance Board annual reports time and time again, it is due to an ageing population. Thank me later.

Madam President, the hon. Sen. Walker indicated that we are moving to

increase the time to bring action to convict. The reason why we are moving the time is to bring action. It is an even bigger stick to errant employers to ensure that they make their payments. That is the purpose for it. It is not, you are giving persons just three years to make a conviction. No. We are increasing the amount of time where the infraction, where the misfeasance has come to the attention of the director, we are increasing the amount of time for that director for the National Insurance Board to bring action against errant employers. And, Madam President, this thing about this call for, “We need to know. We need to know. Who are these persons?” Madam President, the records of the National Insurance Board and the record of the contributors is private. Why you want to be in the business of the people who contribute to the National Insurance Fund? It is private. And, Madam President, the minute you speak about that or the minute you attempt to accede to that request, the next thing you will hear from the Opposition is that they are going into the private affairs and into the private business of citizens. It is confidential and private.

Madam President, I wish to say that something is being missed and I just want to touch on it before I take my seat. During the course of the pandemic a number of entrepreneurs, employers, small and medium enterprises, they were unable to earn, they were unable to remit their contributions, a number of them, and credibly some of them continued, in a compassionate measure, to pay some of their workers.

Madam President: Minister, I just have to interrupt you for a Procedural Motion. Leader of Government Business.

PROCEDURAL MOTION

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne): Madam President, I beg to move that this House do now continue to sit

until the conclusion of the matter at hand.

Madam President: Hon. Senators, the question is that this House continue to sit until the conclusion of the matter at hand, inclusive of the matters on the adjournment.

Question put and agreed to.

NATIONAL INSURANCE (AMDT.) BILL, 2022

Madam President: Continue Minister.

Sen. The Hon. R. Mitchell: Thank you. Thank you very much. We have to put ourselves in the shoes of those persons. Some simply were not able to make their contributions. We tend to stress on the wrongdoers. Yes, there are wrongdoers, Madam President, if you understand as I do in the business world, and I am sure Sen. Lyder understands as well, both employers and employees tend to be errant. Some employers, they simply do not remit the contributions on behalf of their employees. And then too, Madam President, some employees in the construction sector, some employees as clerks in stores, et cetera, they simply do not see the benefit of remitting an amount of money that could be properly spent by them to the National Insurance Board in the form of a contribution. And that is the reality, employers cheat but employees as well cheat the system, until of course, Madam President, when some of those very employees are confronted with a pregnancy or they confront their own mortality and they realize that, “Listen here, I need to make my 750 contributions so that I can have a little pension so that I can take care of myself, take care of my grandchildren, et cetera, when I reach of age”, and that is the fraud that the Minister of Finance is seeking to prevent. Because one of the dangers within that period is for people to come and “hit ah set ah” backdate, backdated contributions to try and cheat and game the system. But, Madam President, I want us to please pay attention and to please pay mind and to engage in

a balancing exercise that, yes, we need the national insurance system to work in the long term. We know and we understand it is our social safety net, we need it to work, but on the other hand, Madam President, we also need the economy to work and we also need the small, the micro, small and medium enterprises because they are the lifeblood of our economy.

So, Madam President, I wish to commend this amendment Bill to the House. I wish to thank the hon. Minister of Finance. I wish to thank all the Members on our side who have spoken in support of it and the Independent Members. I wish to thank them all. I commend this. I am grateful for this and I am sure the people of Trinidad and Tobago, the employers of Trinidad and Tobago are also grateful for this. I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Minister in the Ministry of Finance.

Hon. Senators: [*Desk thumping*]

The Minister in the Ministry of Finance (Hon. Brian Manning): Thank you, Madam President. Madam President, I sat here today and I have not been a participant in this august Chamber for very long, but I have to marvel at Sen. Mark's attempt to bend light; his ability to try to walk reality into a form that suits his own purposes, Madam President. Sen. Mark came here today and he said that this amnesty is—in one point he said, “The violation of the NIB Act”, yet in 2012 when they passed a similar amnesty in a government that he was a part of, he did not think so. He did not think it was a violation of any law back then. Back then the Minister of Finance also unilaterally decided to extend this amnesty without any support, any legislative support from this august House or any other, yet Sen. Mark also had no problem with that back then, but today we have brought this Bill to the Parliament—have done the right thing, and are passing a Bill that I believe is

in the best interest of business people in Trinidad and Tobago—

Hon. Senators: [*Desk thumping*]

Hon. B. Manning:—especially small, medium, micro business people who are looking for a break.

Sen. Mark who has called himself a champion of the people and one who looks out for the small man on this occasion is attacking a Bill that is designed to protect those persons. It is difficult to understand or believe. He came with a list of arbitrary numbers at one point, saying that if one group owed \$100,000 they should get this length of amnesty; if another 200,000, six months' amnesty. Where did those numbers come from? Why would he make the system so complicated? We are saying on this side that if your house is not in order and you owe contributions, we understand that we just came out of one of the sharpest economic downturns in the last 100 years, we are giving you an opportunity to come to us and say, "Look, we need assistance." You do not have to pay any penalties, we will help you. Also, if you have been non-compliant in the past, here is your chance to do the right thing by your employees, and if you do not it is going to be followed with a sharp increase in penalties. As I said earlier, winter is coming for those who are intentionally and willfully non-compliant and taking advantage of their employees in this country. This Government will no longer tolerate that. We have the means now of identifying these persons. The NIB is well equipped in terms of doing its due diligence and policing. We are going to be coming after those delinquent people.

Madam President, there seems to be some confusion in terms of what is being done to improve the longevity of the National Insurance Fund. This is but one of the measures that we are implementing to ensure that the National Insurance Fund is around for future generations. So let me say some of the others; one, we

are trying to get more persons within the system. We have proposed that daily rated workers would also be included within the NIS. Also, the self-employed at some point will eventually be brought under the NIS umbrella. We have also—the NIS Fund has a portion, which is 20 per cent, in US dollars, this is used for international investment because the possible returns on investing internationally are higher than domestic investments. It is 20 per cent, we have proposed to move that up to 30 per cent, Madam President. In the last year the NIS, in terms of its return on investment, gave a record 14 per cent, Madam President, a record 14 per cent return on investment. At the same time, the HSF offered a 13 per cent return. So that gives you a fair idea of exactly how well the NIF fund performed in terms of its investment strategy. So that is another one. As we have been saying and meeting with various stakeholders involved with the NIS system, that the NIS fund is like a water tank. We have funds coming in on one end which are contributions. They go into an overall fund which is then invested and the returns on those investments, along with the contributions are used to pay benefits.

Another strategy that we have been using of course is one where we propose to increase the retirement age. Now, why would we do that? Madam President, we have an ageing population. It is not a domestic or local phenomena, we see it throughout the entire world. All of these various social security funds are designed in a similar manner and need to be adjusted. What is happening is that in past generations, my parents' generation and before, parents would have six, seven, eight children in some cases. That is not happening today. We have a shrinking workforce because people are having less children; not what Sen. Lyder proposed earlier about falling out of the workforce and people not working, or whatever he came up with. The fact is, and the studies have shown that we have an ageing population. People are having less children so our workforce is shrinking. But, at

the same time, people are living longer, healthier lives, so they of course are receiving more and more benefits from the NIB fund. That is the major problem in terms of what is attacking the longevity of the National Insurance Fund and that is what we are seeking to address for the most part. Yes.

So, I wanted to speak more on some of the opinions of Sen. Mark and Sen. Lyder but I am not sure I would have the time to go into that now. I just wanted to—

Sen. Mark: You have plenty time—[*Inaudible*]

Hon. B. Manning: —inform Sen. Lyder and Sen. Mark that what exactly the aging population issue is so that they can actually understand what is going on. Sen. Walker spoke earlier and she seemed to be justifying the need for an extension in terms of this amnesty, saying that it should be pushed back six months. That is exactly the reason why the Minister of Finance reserves the right to have an extension on this amnesty because we cannot for certain know exactly how well it will work or function. So we implement it, we see how it works, we meet with stakeholders and then a decision would be made at the appropriate time. Let me also mention, Sen. Vieira spoke earlier, he had asked a question about how many persons had been prosecuted, that information is not readily available but it is something that I will get for you and send to you in writing at a later date.

Now, we expect that from this amnesty, within the first year, an approximate return of \$161 million and over a period of 10 years we expect to see an increase in contributions of \$792 million, but that is just 10 per cent of the possible 4,000 delinquent employers that we have in Trinidad and Tobago. So that is a pretty conservative estimate and that is the point we are trying to make, that this is just one leg in our entire policy in terms of improving the functions of the NIS fund and securing the longevity of the fund for future generations. But let me go into

more detail. We anticipated that those opposite would be crying foul as it relates to the use of subsidiary legislation in the Bill, namely the power for the Minister of Finance to make orders as they already raised in the other place in relation to this Bill. Permit me to briefly address that matter. Madam President, the use of subsidiary legislation in the laws of Trinidad and Tobago is not new. It has existed since time immemorial and was directly inherited under the Westminster system. To quote from the Parliament Secretariat:

“The making of Statute Law is a function of Parliament and not the Executive Government (Cabinet). However, Parliament frequently delegates to the Executive Government a limited power of Legislation, namely the power to make regulations.

This is often referred to as delegated or subsidiary legislation and done by means of a provision in an Act empowering the Executive Government (Minister responsible) to make laws in the form of regulations, by-laws, orders and rules for matters prescribed in the Act or which are necessary to give effect to the Act.

All subsidiary legislation has to be tabled in both Houses and must be published in the Trinidad and Tobago Gazette when laid, passed or approved as the case may be.”

Now, earlier someone had mentioned that there should be some agreement coming from the board of the NIB before the Minister of Finance presents to this House. The Minister of Finance is an elected official, the board of the NIB is a tripartite committee and sometimes they do not always agree. The Minister of Finance has the ability and the right to come to this House to pass legislation that he believes is in the best interest of the fund and the people of Trinidad and Tobago. Madam President, the last statement that I made by the Parliament

Secretariat finds its force of law in section 12(1)(a) of the Statutes Act, Act No. 1 of 1962. Madam President, as a result, any argument that alleges that there is absolutely no parliamentary oversight or orders that may be made under the Bill is simply not accurate. It is both hypocritical and a perversion of the truth. The orders must be tabled in both Houses. Members of Parliament and Senators alike would have sight of the order, as well as the public.

From my research there have been a number of Acts passed between 2010 to 2015, that is during the dark ages when little national development took place, Madam President, which permit the relevant Minister to simply make orders without regard to affirmative or negative resolution of Parliament, and one has to wonder whether this issue concerning order-making power under this Bill is disingenuous at best. Madam President, earlier, I believe it was the acting Prime Minister who went through a host of legislation that was passed by special majority, the then government, between 2010 and 2015, concerning various aspects of our governance. I will not repeat that.

Madam President, to give one last example that is very relative to the issue of amnesties, this Senate may recall that there was an amnesty on various taxes as implemented by section 16(h) of the Finance Act, 2010, Act No. 13 of 2010. If one looks at section 16(h) of the 2010 Finance Act, one would see that the amnesty period commenced on September 08, 2010, and ended May31, 2011, after which taxes and levies shall be revived and become payable as if the waiver in subsection (1) had not been granted. Madam President, this is also evidenced by a media release from the Ministry of Finance entitled, “Tax Amnesty for the Period 8th September 2010 to 31st May 2011”; the:

“Excerpt from the Senate Response by the Minister of Finance, Winston Dookeran to Question no. 7 on December 14, 2010.”

—which is still available on the Ministry's website as the acting Prime Minister said earlier.

8.00 p.m.

What is most curious is that the media advisory entitled “Tax Amnesty Deadline Extended to June 30, 2011”, issued on May 31, 2011 by the Ministry of Finance, which is still available:

“The Ministry of Finance wishes to advise that the Tax Amnesty Deadline have been extended to Thursday 30, June 2011.”

This decision came from the then Minister of Finance.

Madam President, after being appraised by commissioners of the Inland Revenue Division about the amnesty status, a decision was then taken by the Finance Minister to extend the deadline, in light of the overwhelming response by the citizens and also to allow persons who have not previously met the previous deadline date, the opportunity to comply with this due date. There was no debate or dispute of this in 2012. But Sen. Mark is coming here today to say that we are violating the law. How can that be?

We also heard earlier talk from Sen. Mark and several other Senators that we should bring private information which has been lodged within the NIB, to this House and make it public. Now, there was already one, I would say, financial professional who made that mistake and he paid for it. The legislation is not on the side of those who are willing to violate the privacy of the people of this country.

Sen. Walker had challenges with an amnesty that would allow struggling businesses to become compliant and get their homes in order, but had no problem in attempting to waive the right of privacy, a constitutional right, simply to overturn this simple amnesty. How can that be? Well, let me inform all of the exact legislation that supports the right of privacy. It is 32A. Section 32A of the National

Insurance Act is applicable here:

- “(1) Any employee of the Board on being designated by the Executive Director to so do may furnish or disclose any information pertaining to the National Insurance Contribution records of any insured person under this Act to any Governmental Department, Agency or Statutory Body.
- (2) Every Director, Officer or other employee of the Board whose services are utilised by the Board shall not communicate to any person not legally entitled thereto any information relating to the affairs of any person having any dealing with the Board or relating to the affairs of the Board, or any information furnished by an employer to the Board under any regulation made under this Act.”

That seems pretty clear, Madam President.

I have read and reread provisions of the Finance Act, 2010, Act No. 13 of 2010. I have looked high and low for an amendment through an Act of Parliament or subsidiary legislation that purports to extend the amnesty period of June 30, 2011. I could find none, yet this Opposition would accuse the Government of egregious behaviour, because we are aware of the trends. We know that people would pay at the last minute, we have seen that over and over. We apply common sense and say let the Minister of Finance have the power to extend or grant the new amnesty period by order, so that the situation can be monitored and the public can have certainty.

We are granting a benefit to individuals and, as such, there is no question of deprivation of any rights, and the Order must be laid in both Houses of Parliament and published in the *Gazette* for all to see. That is exactly what we are doing now. This is the act of a caring and supportive government. We are giving those who

have fallen behind an opportunity to catch up, and those who have been flouting the law, the opportunity to do the right thing.

Madam President, I am fortified in my view, given the events of 2011, that the mechanism of the Order is the right thing to do, and I beg to move.

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole Senate.

Senate in committee.

Madam Chairman: Hon. Members, may I ask if everyone has the list of amendments as circulated on behalf of Sen. Mark? Yes?

Hon. Senators: [*Inaudible*]

Madam Chairman: It is all there on the Rotunda. Hon. Senators, I remind you that there are six clauses to the Bill.

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

Clause 3.

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

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, we are absolutely clear in our position that the Executive arm of the State needs supervision and oversight. There is huge overreach, and we need accountability and transparency in action being taken by the Executive. I heard earlier on the Minister making the point that some order would be brought to the Parliament. I do not know where he got his information from, but all I can tell you, Madam Chairman, we believe that if the Minister is going to extend this period of time, that ought to be subject to a sunset clause.

We are proposing that it be brought to Parliament, and let the Minister justify why he is seeking to have this period extended. Even though it is in the

legislation, he must come before the Parliament and explain and justify his rationale for extending this particular arrangement, which is the people's moneys and we are the representatives of the people and, therefore, we need to have some degree of oversight. So that is our position, Madam Chair.

Mr. Imbert: May I be permitted to speak, Madam Chairman?

Madam Chairman: Yes.

Mr. Imbert: This provision finds its place in the Customs Act, the Income Tax Act, the Corporation Tax Act, the Value Added Tax Act. It is standard. It is a bit of a legal nonsense to subject an order to affirmative resolution. You just might as well come and change the law. It does not make any sense.

The purpose of a ministerial order is for administrative efficiency, and as I said, for 50 years our tax laws and our money laws have had these kinds of provisions in it. So I am sorry, I cannot agree with Sen. Mark. When Sen. Mark's government was in power, they did this. They applied similar things. They brought laws with the exact same provision in it. So it cannot be that because the PNM is in government it is bad, and when the UNC was in government, it was good. We do not agree on this side.

Sen. Mark: Madam Chair, can I disagree fundamentally with the Minister, and Acting Prime Minister for so many weeks I should say. I just want to indicate that what the Minister made reference to as it relates to legislation, none of those pieces have any similarity with what we are dealing with. We are dealing with labour, we are dealing with business, and we are dealing with government, and there has been absolutely no consultation with the NIB and with labour.

Madam Chairman: Sen. Mark. Sen. Mark.

Sen. Mark: So we reject that completely.

Madam Chairman: No. Sen. Mark, I need to stop you there. We are treating with

your proposed amendment, and your proposed amendment is to replace the word “Order” with “affirmative resolution of Parliament”. So you are going beyond the scope of your proposed amendment. Sen. Vieira.

Sen. Vieira: Thank you, Chair. The hon. Minister of Finance, Acting Prime Minister, in his contribution I think cleared up some of the concerns that people may have had on the wording of the amendment. The amendment gives the impression that the Minister could waive penalties and interest on a person am basis, but when you read 39B, what 39B is really talking about that:

“Where any employer fails to pay the amount of contributions payable...”—
penalties are fixed.

So for the record what the amendment is seeking to do is to say that the Minister could say, “Yuh see all of these 25 per cent, 100 per cent, they can be waived”. It is not person am, but in rem.

Question, on amendment, put.

Sen. Mark: Division.

The Committee divided: Ayes 6 Noes 22

AYES

Mark, W.

John, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Walker, Ms. M.

NOES

Armour SC, R.

Gopee-Scoon, Mrs. P.

Sinanan, R.

Hosein, K.

West, Ms. A.

Mitchell, R.

Cox, Ms. D.

Bacchus, H.

Ibrahim, Dr. M.

Sagransingh-Sooklal, Mrs. R.

Browne, A. Dr.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Bethelmy, Ms. Y.

Boris, H.

Richards, P.

Vieira, A.

Deyalsingh, Dr. V.

Deonarine, Ms. A.

Seepersad, Ms. C.

Teemal, D.

Thompson-Ahye, Mrs. H.

Amendment negatived.

Clause 3 ordered to stand part of the Bill.

Clause 4.

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

Madam Chairman: Sen. Mark.

Sen. Mark: Yes, Madam Chair. This particular amendment, where we are seeking

to insert “subject to affirmative resolution of Parliament”, is even more egregious, in the sense that the Minister is being given the power to extend the time for the payment of contributions, which, if you check the legislation, the deadline is the 31st of December, 2022. This amendment that we have before us is actually going beyond the pale of that date, which we find very repugnant and unacceptable, indefensible, inexcusable.

Therefore, the Minister must be brought to account, must be brought to book, and we are saying that the Parliament must have supervision over any decision on the part of the Minister to extend the payment contribution time period, and that must be approved by the Parliament. So that is our position. Hence the reason we are calling for affirmative resolution so there can be accountability and transparency.

Madam Chairman: Minister.

Mr. Imbert: Thank you very much, Madam Chairman. I do not think I need to repeat the reality with respect to the first section, but is it that Sen. Mark has abandoned (b)?

Madam Chairman: Sen. Mark, you did not treat with (b).

Sen. Mark: Remember—is this—

Mr. Imbert: 4, clause 4.

Sen. Mark: Okay, I thought, Madam Chair, that it might have been subsection—

Mr. Imbert: “How it go be.” It is clause 4, big Speaker, like you.

Sen. Mark: Madam Chair, to be guided, we are saying that we need some clarification and accountability and transparency. If the Government is saying in accordance with the law that we cannot get the names of these people owing to privacy purposes and reasons, then there is a duty that the Government has to at least inform the Parliament via a report on the number of companies involved in

this matter. We could always amend, with the names of the companies if possible, the categories, whether it is large, medium or small, the value of the penalties and the total value that the NIB would be actually not receiving, given the fact that these penalties and interests would be waived by the Minister. So we believe that there is need for us to have some degree of accountability through the submission of a report.

Mr. Imbert: Madam Chair.

Madam Chairman: No, just one second. Sen. Richards.

Sen. Richards: Madam Chair, thank you. Could the hon. Minister just remind us of the section that refers to the confidentiality clause in the NIB Act?

Mr. Imbert: In the NIB Act? I am afraid I do not have it at hand.

Madam Chairman: The Minister in the Ministry of Finance referred to it.

Mr. Manning: Section 32A of the National Insurance Act.

Madam Chairman: Minister.

Mr. Manning: It carries a penalty of imprisonment for one year and a fine of \$10,000.

Mr. Imbert: Thank you very much, Madam President. But quite apart from that, this amendment would be unconstitutional unless passed with a special majority, because it offends the right to privacy. So that is the first and most important element of all of this. The other point is that the National Insurance Board reports to the Parliament. It submits an annual report every year and also submits its financial statements. And in these financial statements it gives a full disclosure of all of the contributions it has received and the benefits paid out, and certainly in the case of this amnesty, all of that information that Sen. Mark is asking for; certainly not the names. That is a complete breach of privacy, but certainly the details of the collections from this amnesty would be contained in the NIB annual report.

Madam Chairman: Sen. Vieira.

Sen. Vieira: Thank you, Chair, 32A(2):

“Every Director, Officer or other employee of the Board whose services are utilised by the Board shall not communicate to any person not legally entitled thereto any information relating to the affairs of any person having any dealing with the Board or relating to the affairs of the Board or any information furnished by an employer...”

That is fine, standard, but I agree we are talking here about waiver of penalties and interest by persons who have broken the law. I think it is a matter of public interest and deserving of scrutiny. This is not an intrusion into people’s private business. It is not about—if you are giving people a pardon which, in effect, this amnesty is doing, you are being pardoned, that should be subject to scrutiny.

I think the administration of justice requires transparency, and there can be no legitimate expectation, there can be no reasonable expectation that money due and payable to the Board can be varied in private, that persons who have committed offences, persons who have defaulted on their compulsory contributions, I do not see how they can expect that they should be kept at in secrecy. I do not really see 32A(2) as cited as preventing us from saying, no. There should be some disclosure and transparency of the persons who have had these waivers, these persons who have been pardoned. So I agree with Sen. Mark on this one.

Mr. Imbert: But, Sen. Vieira, through you Madam President, that would also apply to tax amnesties, because we give tax amnesties all the time. There has never been any request or any requirement to name the persons who have availed themselves of an amnesty, not having paid income tax, corporation tax, Value Added Tax for many, many years.

I mean, I am not a lawyer at all, and I certainly do not have the legal knowledge anywhere close to Sen. Vieira, but I am of the firm view that we cannot name persons in this way. You cannot reveal that sort of information. I am of the firm view that that would be struck down as unconstitutional.

I wish to reiterate, that in the annual report of the National Insurance Board you can get the number of companies, the categories, the value, all that sort of thing, but I certainly cannot agree respectfully that you could name people. That is an egregious breach of the Constitution in my view. I am not a lawyer, but I am just saying that.

Sen. Vieira: And I am not going to get into the minutiae of privacy law. So I respect your view, but I do feel that in this case—

Madam Chairman: Sen. Mark.

Sen. Mark: Madam Chair, Sen. Vieira did indicate earlier on, it was a very fundamental point he brought to our attention, that the NIB is not a company. We are talking about a fund—a fund, and we are tampering with a fund, and you have people who are duty bound under law to meet their obligation to expand this fund so that people can gain benefits.

Madam Chairman: But Sen. Mark, if I may—

Sen. Mark: I am just saying that I do not support the viewpoint being expressed by the Minister, and I believe that, for instance, there ought to be some system of accountability whenever these things are being done.

Madam Chairman: Attorney General.

Sen. Armour SC: May I make a brief contribution to say that I support the submissions of the Minister of Finance. I do not think it is for us at this stage to be seeking to put people's names and private information, unless it goes to a special majority. I think that would be unconstitutional. We cannot go there.

Question, on amendment, put.

Sen. Mark: Division.

The committee divided.

AYES

Mark, W.

John, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Walker, Ms. M.

Vieira, A.

Deyalsingh, Dr. V.

NOES

Armour SC, R.

Gopee-Scoon, Mrs. P.

Sinanan, R.

Hosein, K.

West, Ms. A.

Mitchell, R.

Cox, Ms. D.

Ibrahim, Dr. M.

Bacchus, H.

Sagransingh-Sooklal, Mrs. R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Bethelmy, Ms. Y.

Boris, H.

Browne, A. Dr.

Deonarine, Ms. A.

Teemal, D.

Thompson-Ahye, Mrs. H. [*Interruption*]

Mr. P. Richards abstained.

Sen. Seepersad: [*Enters Chamber and takes seat*] No.

Hon. Senators: [*Desk thumping and laughter*]

Sen. Seepersad: I am the last person to vote?

[*Clerks confer*]

Madam Chairman: Hon. Senators, we are about to redo the division.

The Committee divided: Ayes 8 Noes 19

AYES

Mark, W.

John, Ms. J.

Nakhid, D.

Lyder, D.

Roberts, A.

Walker, Ms. M.

Vieira, A.

Deyalsingh, Dr. V.

NOES

Armour SC, R.

Gopee-Scoon, Mrs. P.

Sinanan, R.

Hosein, K.

West, Ms. A.

Mitchell, R.

Cox, Ms. D.

Ibrahim, Dr. M.

Bacchus, H.

Sagramsingh-Sooklal, Mrs. R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Bethelmy, Ms. Y.

Boris, H.

Browne, A. Dr.

Deonarine, Ms. A.

Seepersad, Ms. C.

Teemal, D.

Thompson-Ahye, Mrs. H.

Mr. P. Richards abstained.

Amendment negatived.

Clause 4 ordered to stand part of the Bill.

Clauses 5 and 6 ordered to stand part of the Bill.

8.30 p.m.

Question put and agreed to: That the Bill be reported to the Senate.

Senate resumed.

Madam President: Ministry in the Ministry of Finance.

Hon. B. Manning: Madam President, I wish to report that the National Insurance (Amdt.) Bill, 2022, was considered in committee of the whole and approved without amendments. I now beg to move that the Senate agree with the

committee's report.

Question put and agreed to.

Bill reported, without amendment.

Madam President: Minister in the Ministry of Finance.

Hon. B. Manning: Madam President, I beg to—

Sen. Mark: [*Inaudible*]

Madam President: Sen. Mark.

Sen. Mark: [*Inaudible*]

Madam President: Yes.

Question put: That the Bill be now read a third time.

Sen. Mark: Division.

The Senate voted: Ayes 19 Noes 2

AYES

Browne, Hon. Dr. A.

Armour SC, Hon. R.

Gopee-Scoon, Hon. P.

Sinanan, Hon. R.

Hosein, Hon. K.

West, Hon. A.

Mitchell, Hon. R.

Cox, Hon. D.

Ibrahim, Dr. M.

Bacchus, Hon. H.

Sagramsingh-Sooklal, Hon. R.

Lezama-Lee Sing, Mrs. L.

Hislop, L.

Bethelmy, Ms. Y.

Borris, H.

Deonarine, Ms. A.

Seepersad, Ms. C.

Teemal, D.

Thompson-Ahye, Mrs. H.

NOES

Vieira, A.

Deyalsingh, Dr. V.

The following Senators abstained: Mr. W. Mark, Ms. J. John, Mr. D. Nakhid, Mr. D. Lyder, Mr. A. Roberts, Ms. M. Walker and Mr. P. Richards.

Question agreed to.

Bill accordingly read the third time and passed.

Madam President: Leader of Government Business.

ADJOURNMENT

The Minister of Foreign and Caricom Affairs (Sen. The Hon. Dr. Amery Browne): Madam President, I beg to move that this Senate do now adjourn to Monday, July 04, 2022 at 10.00 a.m., when the Government intends to debate the Bail (Amdt.) (Extension of Duration) Bill, 2022.

Sen. Mark: What is the name of that Bill, again?

Madam President: Hon. Senators—

Sen. Mark: [*Inaudible*]

Madam President: Sen. Mark.

Sen. Mark: Sorry.

Madam President: Hon. Senators, before I put the question on the adjournment, leave has been granted for two matters to be raised. Sen. Nakhid.

Hon. Senators: [*Desk thumping*]

**Temporary Increase in Flour Prices
(Government's Explanation of)**

Sen. David Nakhid: In the name of God the most gracious, the most merciful. Madam President, I would like to open with a quotation from one of our modern-day philosophers, Jordan Peterson, and he says:

“If you betray yourself, if you say untrue things, if you act out a lie, you weaken your character.”

And:

“If you have a weak character, then adversity will mow you down when...”—adversity—“appears, as it will, inevitably. You will hide, but there will be no place left to hide. And then you will find yourself doing terrible things.”

Madam President, I raise this matter not only because of the obvious economic and social implications, the ramifications that will be brought to bear upon the citizens of this country by the increase, the hike in flour prices, which I will go into briefly, but because of the flippancy, indeed the sheer mendacity by which the Ministers of this PNM Government addresses the people of this country on the most salient of matters.

Madam President, the Minister of Trade and Industry stated publicly that the hike in flour prices is temporary and linked to future market conditions. The obvious and clear inference being that market conditions in the future would ameliorate, whether through the war in Ukraine coming to an end, wheat production restored to previous levels, whether supply chains would face no further disruptions, transportation costs would go back to previous levels, et cetera. We the people of Trinidad and Tobago cannot, however, benefit from that increased price of oil that

Temporary Increase in Flour
Prices (cont'd)
Sen. Nakhid (cont'd)

we have seen because some economic incompetent government official closed down Petrotrin and subsidies under this pretext were removed. But if that is indeed the economic case that the Minister of Trade and Industry will soon proffer for the 33 per cent hike in flour prices that has literally brought the poor and working class people of this country to their knees, having to choose which meal to skip because flour is indeed a necessity and is used for everything, especially in a poor man's diet, not only in bread and pastries, but pasta and a meal that is common among the poor, maybe none of us know it here, called flour pap.

So, Madam President, the Minister of Trade and Industry must reveal to this Senate, from whence did she obtain this highly privileged information that no other economists globally seem to have? It was not in *The Economist*, I checked. It was not in *The Washington Post*, I checked. *The New York Times*, I double-checked. *The Wall Street Journal*, I checked that too. Maybe it was from that obscure Oxford study that pronounced T&T as being number one in the world in COVID response, whereby we have now recorded over 4,000 deaths, families' lives and livelihoods destroyed.

Madam President: Sen. Nakhid, can I just draw your attention to the matter that is before us and ask you to try and stick within that framework, please.

Sen. D. Nakhid: I am, Madam President. I am just drawing a link between the flippancy of that statement.

Madam President: No need to—no need to justify what you are doing. But I will just ask you bear in mind what was approved for you to raise.

Sen. D. Nakhid: I carry on and lay it bare, a horrendous health care system that this Government claims to have funded over \$40 billion in the last seven years.

Madam President, this statement by the Minister of Trade and Industry is

Temporary Increase in Flour
Prices (cont'd)
Sen. Nakhid (cont'd)

2022.06.30

emblematic of this Government's approach to dealing with the people. So, they know something to be fundamentally untrue or duplicitous but they say it anyway, kick the can down the road and avoid scrutiny or consultation. And we saw it here today. So, the commission of enquiry for Paria, until now, nothing. Task force, \$116 million on the Children's Authority, until now, nothing; 852 million, gone. And the Minister of Standing Orders raises under the parliamentary privilege, LifeSport at every turn, which we know it is just to mislead the public.

Madam President: Sen. Nakhid, of all the persons here, I am listening to you very intently. I do not know that there is a Minister of Standing Orders.

Sen. D. Nakhid: That was—[*Inaudible*]

Madam President: No. No. Hold on. Hold on. And I also know what has been approved and what is before the Chamber right now. So, I will ask you again to confine your contribution to the issue that you were supposed to be raising. Okay?

Sen. D. Nakhid: And that is what—[*Inaudible*—Madam. And as I have said before—as I continue, as I said before, that statement has—is so full of mendacity that it is almost impossible—when one does the research on the economics of that statement, there is no way that that statement can therefore be justified. So, we have to ask ourselves: Why would the Minister of Trade and Industry make that statement? Obviously, Madam President, that statement, like other statements that this Government tends to make, for example, the Prime Minister returning today, obviously that is something just meant to distract from what is the most salient of issues. What indeed—

Madam President: Sen. Nakhid.

Sen. D. Nakhid: Yes, Madam President.

Madam President: Sen. Nakhid, for the benefit of everyone in this Chamber, I am

Temporary Increase in Flour
Prices (cont'd)
Sen. Nakhid (cont'd)

going to read the—what was approved.

Sen. D. Nakhid: Please. Thank you.

Madam President:

Give the public concerns expressed subsequent to the statement made by the Minister of Trade and Industry on the increase in flour prices, the need for the Minister to explain her statements that said increase in flour prices is temporary and linked to future market conditions.

Now, Sen. Nakhid, what I am hearing from you now is not linked to what I have just read out. So, I am—please, this is the third time, I am going to ask you, please, to finish your presentation on this issue.

Sen. D. Nakhid: Thank you, Madam President. Guided as usual. But I thought I could segue into showing that such a statement, again I repeat unfortunately, was so duplicitous by its nature, by its utterance, that it is emblematic of a government that never seems to tell the population of Trinidad and Tobago the truth, clearly, when one states that the hike in flour prices is temporary and linked to future market conditions, when no economists in the world, where no government in the world has indicated that those future market conditions will ameliorate to benefit of the citizens of the world and therefore, that that hike in flour prices is indeed temporary. If there is no view, short term, medium term or long term, by any credible economic source, then that statement is indeed full of mendacity.

And we call on the Minister of Trade and Industry to apologize to the nation, to apologize to the Senate indeed, and let us know why and where she got that information that states that that hike in flour prices would be temporary on a global level and benefit the citizens of Trinidad and Tobago. I thank you, Madam President.

Temporary Increase in Flour
Prices (cont'd)
Sen. Nakhid (cont'd)

Hon. Senators: [*Desk thumping*]

Madam President: Minister of Trade and Industry.

Hon. Senators: [*Desk thumping*]

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):

Thank you very much, Madam President. And I too would have had some difficulty in listening to the ramblings of Sen. Nakhid. And he started with his—a quotation by Jordan Peterson and described him as modern philosopher. But Jordan Peterson was just described by world scientists, in his comments on climate, as “word salad of nonsense”. And that is how he chose to start and this is where the debate went, the Motion went. Nonsense.

Sen. Nakhid: [*Interruption*]

Sen. The Hon. P. Gopee-Scoon: It just seems to—this is a very serious matter. The war in Ukraine, the increase in prices globally, the pressures on world economies, the poverty that has been brought upon the world. and to think that you would come here to discuss semantics about word “temporary” and perhaps you just do not understand. And temporary—perhaps you just had a temporary lapse in judgment.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon: And you have wasted the Senate’s time, as far as I am concerned. But for your edification, “temporary” means for a limited time. That is what it means. It could mean for five years. Like the UNC was in office for a limited time—

Madam President: Minister, just address me, please.

Hon. Senators: [*Crosstalk*]

Madam President: Sen. Nakhid, Sen. Lyder, just, please. You were allowed, Sen.

Temporary Increase in Flour
Prices (cont'd)

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Sen. The Hon. P. Gopee-Scoon (cont'd)

Nakhid, to make your contribution. Let us hear the response, please.

Sen. the Hon. P. Gopee-Scoon: Yeah. I am just giving examples of “temporary”. As it said, between 2010 and 2015, the UNC was temporarily the Government of Trinidad and Tobago and now the UNC will remain permanently in Opposition.

Hon. Senators: [*Desk thumping*]

Sen. The Hon. P. Gopee-Scoon: That is the difference between temporary and permanent. You—Sen. Nakhid, you would have mounted a temporary campaign for the presidency of FIFA but you were forced to withdraw after receiving no support. That is what it is, a limited time, temporary. And I could go on and I could embarrass you, and I will not do that because I have respect for the Parliament.

But let me say to the nation, as I have the opportunity, that what is happening with the regard to the world food prices and the price of flour is not unique to Trinidad and Tobago. I was in the national space speaking to the reasons why, speaking to the whole question of the global food prices. In the case of the UK, a 40-year hike in prices that they have never seen before. In the US, an 8 per cent rise in inflation. It is the highest in four decades. In Canada, an inflation rate of 7.7 per cent, highest in 39 years. And this is the situation that we are taking about. And I came here, I came to the population, and I said that flour, we understand as the Government, it is the most basic item in the food basket of all households. And we understand the increase that will be felt by families across the world, across the country and, of course, I gave the rationale. And it makes no sense going through supply chain disruptions, the ongoing war and so on.

The point is, the reality is, that the price of wheat is not within our control and it is symptomatic of the ongoing global food crisis. Okay? And, I mean, there are warnings about what may—what the likelihood is in terms of this continuing

Temporary Increase in Flour
Prices (cont'd)

Sen. The Hon. P. Gopee-Scoon (cont'd)

but as well, there has been sound global response. And so that, as a country, we have done what we can so far in that there is no VAT, there is no tax or anything like that on flour. We have supplied foreign exchange to those who need to bring in the inputs to make the final product. We have suspended the CET of basic food items. We have done a lot. But, at the time, I gave a commitment to nation that, when I spoke a week ago, in another two weeks we will come back to ensure that we can do whatever is possible else to make it a little bit easier on the most vulnerable people in this population on account of the increase in the price of flour in particular, but among the other things that are also rising. And we made our appeal to the retailers, we made our appeal to consumers and gave our commitment.

And whilst I will agree with you that there sense of uncertainty, there is also the global response and one would recognize that there is a commitment by NATO to strengthen deterrence measures. There is a global bolstering of support to end this war. And therefore, one does not hope that the war would last forever. One hopes and prays that it is, in fact, temporary. And temporary could mean one year. It still is temporary. But we are all in this world working toward a position to return us to some sense of normalcy, and we hope and pray that—

Sen. Nakhid: [*Inaudible*]

Dr. Browne: Madam President, Standing Order 51(1)(e), (f) and (l).

Madam President: Yes. Please, Sen. Nakhid, please allow the Minister to finish her contribution.

Sen. The Hon. P. Gopee-Scoon: So, I really cannot see why you would take issue with a word, not in these circumstances, not where the globe is hoping for the best results in favour of the world population. Okay? This kind of situation must not

Temporary Increase in Flour
Prices (cont'd)
Sen. The Hon. P. Gopee-Scoon (cont'd)

come down to a definition. We are not here to discuss definitions. It seems very petty. Your Motion has been very puerile and petty. Right?

But I end by giving the national population the assurance that the Government will continue to monitor. The Government will return to find solutions so that we would ensure that the most vulnerable are—their situation is improved. And for all of us in this global world, we are hoping and praying for the best. Yes? Thank you.

Hon. Senators: [*Desk thumping*]

Madam President: Sen. Deonarine.

Hon. Senators: [*Desk thumping*]

Virtual Asset Legislation

(Need for Government to Present)

Sen. Amrita Deonarine: Thank you, Madam President, for the opportunity to raise this matter on the adjournment, the need for the Government to present virtual asset legislation to Parliament having regard to the FATF Recommendation 15 and in light of the Government's policy position on the use of cryptocurrency in Trinidad and Tobago.

Madam President, on June 14, 2022 a question was raised on the Order Paper, Question No. 159 to be specific, to gain some insight on the Government's policy position and legislative agenda with respect to cryptocurrencies and bitcoin mining in Trinidad and Tobago. This question was raised by myself in light of newspaper reports of a US \$.5 billion mining farm proposed by three companies, one being the ANSA McAL conglomerate and the Tamana investment—at the Tamana investment park.

Madam President, it was reported that given these developments, the

Virtual Asset Legislation
(Need for Government to Present)
Sen. A. Deonarine (cont'd)

Ministry of Trade and Industry was prompted to look into a policy and legislative framework to understand the possibilities of the cryptocurrency industry in Trinidad and Tobago. Madam President, in response to this question, the Government's policy position was placed on the record of this honourable House as one simply to not support bitcoin mining at this time.

Madam President, on one hand, this policy position can be seen as an anti-innovative one. But, on the other hand, there are also the risks associated with cryptocurrencies that must also be considered. Bitcoin mining has large energy or electricity demands with a huge energy footprint. As a matter of fact, the proposed project by Trinimine would have a capacity of 300 megawatts. That is equivalent to powering approximately 60,000 homes in Trinidad and Tobago. There other risks associated with bitcoin farming, especially with respect to its—especially with respect to it being a conduit for a host of illegal activities, including money laundering, extortion, illicit drug trading, terrorist financing and so on.

Madam President, this matter today questions the justification on the Government's policy position and seeks to understand how the Government intends to cement its policy position of not supporting bitcoin mining in legislation given the anti-money laundering and counter financing terrorism—terrorists risks associated with it.

Now, the impression that I got from the Government was that, to their understanding, there are no uniformed international laws that regulate bitcoin mining, therefore regulation is not needed to support its policy position. However, FATF recently updated its guidelines on Recommendation 15 to guide governments on how to regulate the risks associated with bitcoin mining and the cryptocurrency industry.

Virtual Asset Legislation
(Need for Government to Present)
Sen. A. Deonarine (cont'd)

FATF recommendation 15 lays out the requirement for virtual asset management. Countries should assess their risks with respect to virtual assets and regulate it. Having legislation also means that if your policy position is that you do not want to encourage bitcoin mining in your country, then you need to pass legislation to support your policy position, whether it is by means of banning it entirely or having limited use via regulations.

This is important, Madam President, because we live in a globalized world. People do business outside of the territory. People could invest outside. Banks may have clients who purchase or invest into virtual assets outside of the country, just like you would purchase something online. The bottom line is this: if you want to have it in the country, you need to manage it and regulate it. If you do not want to have it, then you need to pass legislation restricting it or banning it. Saying that you do not support bitcoin mining and cryptocurrencies is not sufficient. If there is no legislation saying that this is not allowed in the country, that means I can invest in it, it means that I can set up a bitcoin-mining farm. What is there to stop me from engaging in the cryptocurrency industry in Trinidad and Tobago given the Government's policy position?

Just like you regulate accountants, lawyers, NGOs, et cetera, for anti-money laundering activities, the cryptocurrency industry needs to be regulated. Even though the policy position of the Government is to not support it, I am not aware of any legislation that prohibits any potential investor of bitcoin mining in Trinidad and Tobago or any individual wishing to invest in it.

9.00 p.m.

The most I would have seen was a joint statement by the Central Bank of Trinidad and Tobago, the Trinidad and Tobago Security Exchange Commission

Virtual Asset Legislation
(Need for Government to Present)
Sen. A. Deonarine (cont'd)

and the Financial Intelligence Unit about potential risks of investing in or conducting transactions with cryptocurrencies. This statement was made in 2019. The Central Bank of Trinidad and Tobago is, as a matter of fact, not blocking commercial banks from selling foreign exchange to their customers who purchase cryptocurrencies. Some commercial banks are discouraging it. It is important to understand that regionally and globally this sector has been emerging. As a result we cannot bury our heads in the sand and say it does not apply to us because we, the Government, does not support it. What about the people in a country investing in it or mining at home on their computers or companies that come to Trinidad and Tobago and encourage people to invest in it.

We spoke about countries that have not allowed it. If we look at the countries that have banded Bitcoin mining or cryptocurrency there are countries, with the exception of China and India, they are not major trading partners of Trinidad and Tobago. We are talking about countries like, Algeria, Bolivia, Egypt, Indonesia, Iraq, Russia, Turkey to name a few. But what about countries that have allowed it. Within the Caribbean there are countries that have supported and passed the necessary legislation, Dominica being the most recent. We have St. Kitts and Nevis, Antigua and Barbuda also on board.

Now, I do not understand how the policy was arrived at, policy decision was arrived at. What has to happen, Madam President, is that the country needs to assess the risk in arriving at the policy position.

Madam President: Sen. Deonarine I just need to interrupt you here, because I think you are straying from your Motion a little bit, all right, because you actually now going into the issue of the policy and questioning the policy whereas the matter here is a framed differently, yeah?

Virtual Asset Legislation
(Need for Government to Present)
Sen. A. Deonarine (cont'd)

Sen. A. Deonarine: I am guided, Madam President. So, Madam President, as the country continues to struggle with crime, the potential use by criminal activities is quite apparent. A lot would depend on the Government's legislation empowering the banking sector to have the appropriate anti-money laundering systems, systems specifically pertaining to cryptocurrencies. The investor who is involved in illegal activities can easily attempt to wash his money by manipulating the financial and cryptocurrency system. CFATF, that is, the Caribbean arm of the Financial Action Task Force should be advising on virtual assets. Have the CFATF done an assessment that informed the Government of its policy position and whether there needs to be legislation or what regulations has to be put in place?

Madam President, a proper assessment has to be done to a certain risks to investors now and in the future. This is something that has generated a lot of public interest and will continue to generate public interest and some clarity is needed on the legislative direction we are going with to support the Government's policy position. I thank you, Madam President.

Hon. Senators: [*Desk thumping*]

Madam President: Minister in the Ministry of Finance.

Hon. Senators: [*Desk thumping*].

The Minister in the Ministry of Finance (Hon. Brian Manning): Thank you, Madam President. As stated previously in response to a question in this Senate the Government is not supporting the introduction of cryptocurrency in Trinidad and Tobago at this time. However, the Government in collaboration with the Central Bank as the regulator of the financial system has made significant strides towards the creation of a domestic legislative and regulatory environment consistent and compliant with FATF Recommendation No. 15. For the benefit of hon. Senators

and the public at large allow me to explain what FATF Recommendation No. 15 involves and the work currently in progress to bring Trinidad and Tobago in line with this recommendation.

FATF Recommendation 15 treats with money laundering, terrorist financing, proliferation financing or ML/TF/PF risk which arise from the development and use of new products and new business practices, including new delivery mechanisms and the use of new and developing technologies for both new and pre-existing products. This recommendation has existed since 2012 and has been implemented in Trinidad and Tobago's laws since 2014 to Regulation 23 of the Financial Obligations Regulations 2010.

The 2018 revision of FATF's recommendation also included the definition of virtual assets. Madam President, it must be stated that virtual assets are not limited to cryptocurrencies but include any type of digital representation of value which falls within FATF's purview and recommendations. FATF Recommendation 15 requires that countries ensure that virtual assets service providers are regulated for AML/CFT purposes and are licensed or registered and are subjected to effective systems for monitoring and ensuring compliance and the relevant measures throughout the FAFT recommendations.

Identification and Assessment Risk. The first step required by the FAFT in mitigating against all ML/TF/PF risk including risk emerging from virtual assets is to identify and assess these risks. We recognize therefore that it is incumbent upon any jurisdiction to undertake an assessment of the virtual asset sector as it exist to ensure the steps taken to impose AML/CFT/CPF obligations on the service providers within this sector or impose restrictions on the use of virtual assets which are proportionate as sufficiently discouraging to curb illicit activities. In this

Virtual Asset Legislation
(Need for Government to Present)
Hon. B. Manning (cont'd)

context I wish to reiterate that the Government is not supporting the introduction of cryptocurrency in Trinidad and Tobago at this time.

In tandem with the various changes proposed and implemented by the FATF, the Office of the Attorney General and the Ministry of Legal Affairs through its inter-ministerial committee, National Anti-Money Laundering and Counter Financing of Terrorism Committee or NAMLC and the Trinidad and Tobago AML/CFT Supervisory Authorities, Central Bank of Trinidad and Tobago, the FIU of Trinidad and Tobago and the TTSEC have continued to monitor the evolution of the use of potential use of virtual assets and virtual assets service providers in Trinidad and Tobago.

National Risk Assessment or NRA. This need for further understanding and an identification of risk has led to the Government of Trinidad and Tobago's engagement of the World Bank to provide technical assistance with conducting a specific risk assessment into virtual assets and virtual assets service providers. This risk assessment is being undertaken as a stand-alone module within the broader scope of the NRA which is currently underway being managed by the NAMLC. It is intended that the risk of this risk assessment will inform the extent to which the virtual assets and virtual assets service providers are being misused or are likely to being misused by criminal actors in Trinidad and Tobago. This information should form the basis of any supervisory or regulatory action to be taken. This module is scheduled for commencement in the latter part of 2022.

Join Regulatory Innovation Hub. Further, Madam President, it is to be noted that together with the National Risk Assessment the Central Bank of Trinidad and Tobago, the TTSEC and FIUTT in some initial steps taken to understand the status of overall Fintech activities, including, virtual assets and virtual asset service

Virtual Asset Legislation
(Need for Government to Present)
Hon. B. Manning (cont'd)

providers activities in Trinidad and Tobago established a joint regulatory innovation hub on October 02, 2020. This hub provides an online portal through which entities wishing to establish Fintech businesses in Trinidad and Tobago including virtual asset service providers can engage with the three authorities simultaneously to understand the regulatory framework and for the authorities to understand their business models.

The hub also provides a mechanism for interested Fintech to submit applications for provisional registration for e-money users. This hub serves as a means for the authorities to gather information on various types of Fintech businesses in operation in Trinidad and Tobago and possible risk that they may pose which will inform policy decisions. As at December 31st, 2021, the authorities engaged with 43 entities on matters ranging from the requirements for virtual cryptocurrency to regulations, guidelines and application procedures pertaining to payment service providers, EMIs and the regulatory sandbox.

The Joint Regulatory Sandbox. In addition, Madam President, the authorities have collaborated on the establishment of a joint regulatory sandbox to compliment the regulatory innovation hub. The sandbox allows entities to test and evaluate the innovative products and services, as well as business models in a controlled space prior to the full launch to the public. Phase one of the sandbox, Madam President, became operational with the enactment of the e-money user order, 2020, which allows for the granting of provisional licences to an e-money issuer with the applicant does not immediately satisfy all the regulatory requirements to enable it to be licensed. Phase two of the sandbox is being developed for wider Fintech but requires legislative amendments in order to be operationalized.

Madam President, all Fintech including virtual assets service providers that

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intend to provide financial product services that are regulated activities must engage with the regulators via the hub. Data collected through both the hub and sandbox will assist the authorities in understanding the risk posed by the Fintech including virtual assets service providers, which in turn would also be used to inform the regulatory framework in line with the FAFT Recommendation 15.

Virtual Asset Service Providers. Madam President, in May, 2021, the Central Bank issued a draft policy for a comprehensive digital payment system legislative framework for Trinidad and Tobago. The stakeholder consultation and a public webinar was held in June 2021 to present the policy proposals. The draft policy includes a proposed regulatory framework for payments services providers including Fintechs and virtual asset service providers that engage in activities to facilitate payment or transfers. At this time the Central Bank is receiving technical assistance from the technical arm of the IMF to prepare the proposed digital payment system legislation and regulations. It is anticipated that the payment policy and draft legislation would be submitted to the Ministry of Finance later this year for review and approval by Cabinet.

Central Bank Digital Currency or CBDC. Madam President, FATF Recommendation 15 also apply to CBDC's similar to any other form of fiat currency issued by a Central Bank. CBDCs may have unique ML/TF risk compared with physical fiat depending on their design. Such ML/TF risk should be addressed in a forward looking manner before the launch of any CBDCs. With the emergence of virtual assets such as cryptocurrency, stable coin and the like on the financial landscape, the Central Bank's focus is on a promotion of safe, efficient and modern largely digital transactions. Digital currencies can economize on the use of cash, promote financial inclusion and enhance the payment system by

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providing cheaper and faster alternatives to purchasing goods and services.

In this regard the CBTT, the Central Bank of Trinidad and Tobago has been examining the pros and cons of the issuance of a Central Bank digital currency. Given that if feasible it could compliment efforts to promote a digital economy by allowing digital transactions with the full backing of the Central Bank as legal tender to be widely used by businesses and the general population. As the first step the CBTT has conducted a comprehensive review of Central Bank digital currencies involving an assessment of the legal, technical and operational aspects and countries studies including—

Madam President: Minister—

Hon. B. Manning:—the experiences—

Madam President: Minister your time is expired.

Hon. B. Manning: Thank you.

Question put and agreed to.

Senate adjourned accordingly.

Adjourned at 9.14 p.m.